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THE SITUATION IN IRAN

HEARING

BEFORE

COMMITTEE ON FOREIGN RELATIONS

UNITED STATES SENATE

NINETY-SIXTH CONGRESS

SECOND SESSION

MAY 8, 1980

(Top secret hearing held on May 8, 1980; sanitized and printed on
February 18, 1981)

Printed for the use of the Committee on Foreign Relations

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(II)

INTRODUCTION BY SENATOR CHURCH

The unwarranted Iranian seizure of the American hostages, who have been held illegally since November 4, 1979, has presented extremely difficult problems for the United States. Our people have responded to this challenge with poise, patience, and determination. The best efforts of the U.S. Government have not yet secured the release of the hostages, but we shall persevere in our efforts until all of them have been freed and reunited with their families and friends.

A large element of secrecy has been essential in the negotiations undertaken by the administration to obtain the release of the hostages. However, the need for secrecy does not eliminate the responsibilities of the Congress and the Senate Foreign Relations Committee regarding these matters, which requires the administration to discuss its efforts with the committee on a periodic basis. One such occasion occurred on May 8, 1980, shortly after the tragic failure of the U.S. attempt to rescue the hostages. At that time, the committee met in executive session with Warren Christopher, the Acting Secretary of State. Secretary Christopher discussed the rescue operation, although in general terms; the applicability of the War Powers Resolution; and the situation in Iran and the future course of U.S. policy.

Because of the continuing importance of the issue of consultation with Congress under the War Powers Resolution, the committee decided it would be useful to declassify and publish as much of the hearing as possible. We worked closely with Secretary Christopher and the State Department on this matter, and reached agreement that much of the hearing could be declassified without endangering the hostages or jeopardizing their chances for release.

The administration asserted that the President had not been obligated to consult with Congress under the War Powers Resolution since the Iranian action was a "humanitarian rescue operation" outside the scope of the Resolution. The committee did not accept this assertion, but was primarily interested in establishing guidelines for the future rather than examining the past. In its discussion with Secretary Christopher, the committee stressed two points. First, consultation requires more than merely informing Congress that an activity is underway or planned; consultation requires giving Congress an opportunity to participate in the decision making process. Second, as Senator Javits pointed out, the judgment concerning the need for and process of consultation in a particular situation cannot be made unilaterally by the President, but must be made by the President and the Congress.

The question of who constitutes "Congress" under the War Powers Resolution is not, however, entirely clear. Is consultation with the leadership of the Senate and House adequate? With the leadership, and the chairman and ranking minority members of the Senate Foreign Relations Committee and the House Foreign Affairs Committee? With the full membership of those, and perhaps other, committees? These are matters that Congress itself must decide. Our discussions did not lead to a firm answer to the questions. Indeed, there may be no single answer appropriate to all circumstances. Nonetheless, our discussions clarified the issue, and thus make an important contribution to a better understanding of this important matter.

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THE SITUATION IN IRAN

THURSDAY, MAY 8, 1980

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to recess, at 10 :26 a.m., in room S-116, The Capitol, Hon. Frank Church (chairman of the committee) presiding.

Present: Senators Church, Pell, Biden, Glenn, Stone, Sarbanes, Zorinsky, Javits, Percy, Helms, Hayakawa, and Lugar.

The CHAIRMAN. Now that we are in executive session, Senator Javits, did you have any further remarks?

Senator JAVITS. Yes, I do.

If any Member of Congress leaks—and that is the implication of the Atwood letter—no matter who it is, I would feel that the utmost we can possibly do about it must be done. It is that serious. All restraints on being nice to our brethren must be gone. We must be trusted with the information. We must respect it as if we were soldiers—and I have been a soldier, and so have you, as have many of us here.

We must have that.

Thank you, Mr. Chairman.

Senator PERCY. Mr. Chairman, may I also inject a personal note. I wish to express to this committee my own deep appreciation to Warren Christopher for his relationship with the Senate on this entire matter. He has done a tremendous job in keeping us up to date day by day, at tremendous cost to his own time and energy.

Senator JAVITS. And with taste and discretion.

Mr. CHRISTOPHER. I appreciate that, Senators.

Senator PERCY. As has been said, Ed Muskie has a right to pick his own team. But I, for one, hope there will be as few changes as necessary. I do hope the continuity of Secretary Christopher's service can be maintained to support Ed Muskie and also for the good of the foreign policy of this country.

We thank you very much, indeed, Mr. Secretary.

Mr. CHRISTOPHER. I appreciate that very much, Senator.

The CHAIRMAN. Let me endorse what Chuck Percy has said.

I don't know at this time how much notice the State Department had of the rescue operation as compared to what we may have had. But I want to say to Warren Christopher that in connection with his briefings and those of the Secretary of State, Cy Vance, during the long period of the crisis, I personally appreciated them. They were carried forward in a regular manner with sufficient frequency that we were

kept abreast of the diplomatic efforts of the Department in all of their particulars.

Furthermore, Mr. Christopher, from the time you became Deputy Secretary you have always dealt with this committee in the most honorable way. We have come to trust you and to respect you very highly.

I want you to know that that is my personal feeling. There never was a time, even when we were facing some difficult political problems and some fractious problems, that you did not always keep the record straight in every particular in connection with the press and in connection with your dealings with this committee and with me, personally. For that, Warren, I want to thank you very much. I mean that sincerely.

Mr. CHRISTOPHER. Thank you very much.

Senator JAVITS. I want to join in both the sentiments of Senator Church and Senator Percy.

Mr. CHRISTOPHER. Thank you.

The CHAIRMAN. Warren, would you begin, please.

STATEMENT OF HON. WARREN CHRISTOPHER, ACTING SECRETARY OF STATE

Mr. CHRISTOPHER. Mr. Chairman, of course I would not begin without thanking all of you for those kind expressions. They mean a great deal to me.

I know you all have time constraints this morning and so I would like to minimize the amount of my opening statement. But it does seem to me important that I touch on three subjects in advance of the questioning: First, the timing of the rescue operation; second, the War Powers Act; and third, and in many respects the most important, the evaluation of the present situation in Iran.

From the very beginning of the crisis, we have pursued every peaceful avenue available to us to bring the ordeal to a successful conclusion—to free our people with honor.

We have believed and continue to believe that the Iranians must be convinced through increasing international pressure and through increasing isolation that they have nothing to gain and a great deal to lose by perpetuating and intensifying this crisis. At the same time, we have pursued every diplomatic channel that could lead to an honorable solution.

Throughout this period, the nation of Iran has, unfortunately from our standpoint, been in a constant state of turmoil and change. For the first two and a half months, we were unable to establish any serious or sustained discussion with the Iranians. We took economic and other actions—cutting off purchases of oil from them, freezing their assets, blocking the sale of military equipment and parts. We have pressed in the United Nations, in the International Court of Justice, anywhere we could find, for clear international expressions of condemnation that would underscore the isolation that Iran is warranted in feeling over this situation.

When real opportunities opened for diplomacy in mid-January, we pursued them seriously, carefully, and in good faith. We temporarily

held back our efforts to press for further international sanctions in the hope that this would give diplomatic prospects a greater opportunity to succeed.

When these efforts broke down on April 7 because the Iranian authorities had failed to fulfill the commitments that they had made to us, the President promptly moved forward with steps to increase steadily the price the Iranians will pay so long as they deny our people their freedom.

It has been clear for some time, however, that such measures and other pressures available to us will take time to have an effect in Iran. Time is hard on the hostages, for as time goes by, the psychological and physical strain on the hostages grows. The damage being done to stability in that area increases and the threat to the international order increases.

Because of this situation, there had been for some months a second parallel path pursued by our Government, a path which offered, by its nature, an option that required secrecy and surprise.

As has been said, a rescue plan had been under development since shortly after the beginning of this crisis. Several considerations led to the decision to undertake a rescue mission at the time that it was—that is, the 24th of April.

First, as I have outlined, it became increasingly clear after almost 6 months of diplomatic effort that the Iranian authorities were unable or unwilling to take action to release the hostages.

Second, we were increasingly concerned about the safety and well-being of the hostages in view particularly of the unravelling of authority in Iran and the deteriorating security situation there.

Third, there were strong indications that the Iranian leadership would not address the hostage situation until after the Iranian Parliament could be elected and begin to function, and that date kept slipping further and further backward. There was no assurance that even after the election the Parliament would move either expeditiously or positively to end the crisis.

Finally, an important reason for the timing of the mission was that a number of seasonal weather conditions would have turned against the mission if it had been delayed. These include wind, temperature, and hours of darkness.

Before I turn to the present situation in Iran, let me emphasize two fundamental points about the rescue operation.

First, it was not a sustained military action against Iran. It was an anti-terrorist rescue operation for humanitarian purposes. It sought only the freedom of Americans held in protracted captivity in gross violation of international law and diplomatic practice.

Second, the operation was entirely consistent with both international and United States law.

In light of the armed attack against our diplomatic mission, containing Marines as well as military officers, in light of the illegal seizing of our citizens, and in light of the refusal of the Government of Iran to secure their release, the United States acted wholly within its rights of self-defense under international law—specifically, article 51 of the United Nations Charter.

In ordering this operation, the President also acted within his con-

stitutional authority as Chief Executive and Commander-in-Chief of the Armed Forces.

As you know, on April 26, he submitted a report to the Congress consistent with section 4 of the War Powers Resolution.

The President concluded in this case that the success of the operation and the safety of those involved depended upon total surprise and total secrecy. For that reason, he concluded that it was essential to limit knowledge of the operation to a very small group of individuals directly involved in the planning and implementing of the operation.

He therefore concluded that it was not possible in this instance to engage in the consultations under section 3 of the War Powers Resolution.

This was a difficult decision for him to make, but it was one that he considered essential under the extraordinary circumstances of the case. Had the operation proceeded beyond the first day, he had planned appropriate consultation before the next phase began. But that is one of those contingency matters on which I think we cannot be precise at this moment.

Senator PERCY. Would you explain a little bit more on that, Mr. Secretary. If as you say the element of surprise was essential, as was confidentiality, how, once you have American operatives engaged on the ground, could you take a chance of the secrecy being broken?

You said you would consult at the end of the first day.

Mr. CHRISTOPHER. That is a fair point, Senator Percy. It was the President's intention to call a group of people to the White House at a time so late that the compromise of secrecy would not have been as great, or the likely compromise of secrecy would not have been so great.

The time frame is such that I would have to say a consultation at that time is less than perfect. That is why I do not put great weight on that point.

The CHAIRMAN. That is a masterpiece of understatement.

Senator PERCY. Who would have been called to the White House at that point? Would it have been the chairman? How large a group would it have been? Was that defined clearly by the administration?

Mr. CHRISTOPHER. I do not know exactly what the contingency plans were. But I think the President was inclined at that point to call not only the two leaders of each of the Houses, but the chairmen and ranking members of pertinent committees.

I would be very glad for you to stop me as I go through my presentation if you have points to raise.

The CHAIRMAN. I have one point to raise if we are going to proceed in that manner—and I have no objection to it if other members are willing.

Senator PERCY. I think it would be helpful, Mr. Chairman, if we could.

The CHAIRMAN. Very well.

Mr. Secretary, in your prepared testimony you say: "Second, we were increasingly concerned about the safety and well-being of the hostages in view of the unravelling of authority in Iran and the deteriorating security situation there."

I have seen reports in the newspapers—one of the better sources of information for this committee—that your intelligence reports were

quite different than that, that as far as the security of the hostages was concerned, that had not deteriorated and they were in no greater hazard than they had been in the earlier months. In fact, the threats to try them and to execute them had been muted. We saw that ministers were being allowed in, even parents were being allowed in. It looked to me like there was a kind of loosening of the situation rather than one in which the hostages faced an increasing peril.

I just cannot reconcile either the external symptoms nor the press accounts with that statement.

Mr. CHRISTOPHER. Mr. Chairman, I think in a narrow sense we may have had some reassurance about their day-to-day well-being and safety. There had been the visit at Eastertime. But, in the broader sense, the unravelling of the situation within the country and the deteriorating security situation gave us a concern about their security in the longer term. The intensifying of the Iraq-Iran dispute on the border, the fact that the country seemed to be unravelling and coming apart led the President to conclude that their longer term security was endangered.

That is why I put it as I did, that we were concerned about it in view of the unravelling and in view of the security situation.

Unquestionably, we were glad to know that all 50 of the hostages were there in the compound and that the Red Cross was there, although their inspection was not what the Red Cross had wanted and they really did not have a good chance to make an evaluation of the hostages' mental well-being. We were glad to know that in the short-term. But in the broader sense, I think there was an increasing fear.

Senator JAVITS. Mr. Secretary, a central point, and one also of law, is this. The statute says, and I quote: "The President, in every possible instance, shall consult with Congress." That is section 3.

Looking at it from the point of view of the law, do you agree that the word "possible" is the key word and, in the interpretation given to it by the President, does or does not the word "possible" deal with the issue of secrecy?

What is the Executive Department telling us—that if it is to be kept secret, it is impossible, or it is not possible?

Mr. CHRISTOPHER. Senator Javits, let me say this about that.

When I was informed of the rescue operation, I felt an obligation to insure that there was a legal opinion with respect to the War Powers Act. Although I am a lawyer—some might say a reformed lawyer—I did not purport to practice law in this particular matter.

In the view of the President's legal advisers, as I say in my statement, the requirement of section 3 of the resolution for prior consultations "in every possible instance" must leave to the President the responsibility for deciding whether consultations would be possible without jeopardizing such a vital operation.

The President's legal advisers felt that that interpretation is supported by section 8(d) of the resolution, which disclaims any intent to alter the constitutional responsibilities of the President. Thus, the President's legal advisers—that is, his Counsel, and the Attorney General—concluded that the President's decision was within his constitutional authority and responsibility and was not contrary to the language or intent of section 3 of the resolution.

Senator JAVITS. Read the next paragraph, please.

Mr. CHRISTOPHER. I want to emphasize that the administration does not regard the extraordinary circumstances of this case as a precedent for avoiding consultations with the Congress; nor do we contend that the President is free to avoid consultations in any case where he desires secrecy.

Senator JAVITS. Well, that certainly answers the secrecy point. But it makes an even worse point, and that is that this is to be interpreted by the President, in his judgment, and not by the President and the Congress in their judgment. It seems to me that, if we accept the administration's interpretation and the fact that we passed this resolution and that it is law over the President's veto, it means the President continues to adhere to the proposition that whatever he decides is the law in this particular matter because it is within his constitutional authority to deny us consultation if he does not think it is possible.

We cannot accept that in my opinion. I believe that point must be made, and the principle of congression control may prove ultimately to be more important even than this particular matter.

Thank you, Mr. Chairman.

Senator PERCY. Would you yield, Jack, on that point?

Senator JAVITS. Certainly.

Senator PERCY. Mr. Secretary, when you say a very small number of individuals involved, how many is very small? It would seem to me that it would run into the hundreds who would have to know about this. Here we are talking about a very small number of people in Congress, as defined by you—four, five, or six, maybe eight people. This is against the number on the Executive side, where there would really have to be hundreds who would know about this operation.

Mr. CHRISTOPHER. Senator Percy, I would not want to get into a balancing of numbers, but I would suppose, if you had both the majority leader and the minority leader and the ranking member and the chairman of the relevant committees, that would be about 10 in each House. So you are talking about 20 on Capitol Hill.

Senator JAVITS. No, it wouldn't be 10 or 20. It would be 4 from the House and Senate and 2 each from the House and Senate. That makes 8, that's all.

Senator PERCY. Yes. As long as this involves the War Powers Act and the Armed Services Committees have clearly said, so far as War Powers is concerned, the Foreign Relations Committee has jurisdiction, that would be only two here and two in the House plus the four leaders. Even in extreme cases I would tend to think Senator Church and Senator Javits—and I think the House would feel the same way about its chairmen and ranking members—would excuse themselves so that the four leaders would suffice. If it really had to be buttoned down, that probably would be it.

Mr. CHRISTOPHER. That is a matter for your institution and not for mine. When we think of the chairmen and ranking members of the relevant committees, we would include Armed Services, Foreign Relations and the Intelligence Committees. So it seemed to us like a larger number than perhaps it seems to you. But that is a matter for your institution and not for ours.

I can answer on our side and say to you that this matter was held within the executive branch to the statutory members of the National Security Council. It did not extend to their deputies until the very late stages of the operation.

Perhaps you know that I was not briefed on the rescue operation on the 11th of April, only 13 days before it commenced.

Clearly there were those in the military who had to be briefed on certain pieces of it. But as far as knowing the entire operation, the President kept it to a very, very small number in the executive branch.

Senator SARBANES. Mr. Chairman.

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. I would like to ask a little bit about the executive branch's decisionmaking process with respect to this consultation question.

In other words, I take it from the fact that you requested a legal opinion that you at least saw a serious question as to whether consultation was required under the War Powers Act. Is that correct?

Mr. CHRISTOPHER. It is somewhat broader than that, Senator Sarbanes.

When I was aware that this operation was anticipated, the President had taken a tentative decision to go ahead. I felt we would want to be in compliance with the War Powers Act and I urged the relevant people to make certain that the President's Legal Adviser would advise him on the full, broad range of requirements under the War Powers Act.

Senator SARBANES. Was the question considered as to, regardless of whether it was legally required, whether it was advisable as a matter of policy to consult with the Congress?

Mr. CHRISTOPHER. Senator Sarbanes, I was not in those discussions beyond the point of making sure that the President was being advised by his counsel and his counsel was consulting with the Attorney General.

So, I cannot answer you as to whether or not.

Senator SARBANES. Did the Department which interrelates with the Congress all the time take a view in giving counsel to the President as to whether he should consult with the Congress or with a limited number of people in the Congress?

Mr. CHRISTOPHER. Senator, I hope you will forgive me if I say that I think I should not testify as to what advice Cy Vance or I might have given to the President on that subject.

The CHAIRMAN. I just want to express an opinion that I hold. It is a rather cynical one. I find that the longer I serve in government the more cynical I become, and I am sorry about that. But it seems to be happening to me.

I do not think that there was any genuine concern about a leak in a closely held matter of this kind with the people the President would have consulted with, whomever they may have been. We know them and there would not have been any leak.

I rather think the reluctance to consult is that the President might have gotten advice from the Congress that he did not want to get.

I remember before the Bay of Pigs operation, quite by accident the President consulted with Senator Fulbright on the plane coming back

to Washington. Senator Fulbright strongly advised him against undertaking the Bay of Pigs mission.

In the aftermath of that fiasco this came to light, not because Senator Fulbright disclosed it, but because in the course of time it surfaced and it was later confirmed that Senator Fulbright had, in fact, given the President that advice.

So, I think as we look ahead the reluctance of the President in cases of this kind may derive from considerations more political than security oriented.

I have learned that Congress is trustworthy when it comes to matters vital to the security of this country.

I conducted an 18-month investigation of the intelligence agencies without a single leak affecting the identity of any of our sources or methods or any of our agents—anything—anything that touched upon the genuine security interests of the country.

That was a big committee and we had a big staff. But we did it.

I think the problem we have regarding the War Powers Act is a reluctance of the Executive to confide for reasons other than the fear of possible leaks. Since this mission failed, we have seen in the newspapers all kinds of information that we cannot get as a committee. That has had to be leaked, and it has not been leaked to the Congress because the Congress has not gotten the information. To my knowledge, not a single committee has been given the kind of information I am reading in "The New York Times."

If there is a sieve anywhere, it is downtown.

Mr. CHRISTOPHER. Mr. Chairman, may I say two things.

First, it is very hard to get into motives or to challenge your perception of motives. I will say, from being closely involved for the last 13 days, that there was a tremendous concern about leaks of the information. Extraordinary steps were taken to avoid leaks. The matter was, much to our reassurance and somewhat to our amazement, not leaked. The secrecy was not penetrated, although a number of people in the military had to know.

Second, the stories that have been appearing in the newspapers have about as much that is inaccurate in them as they do information that is accurate. There is a good deal of fictionalization going on in some of the newspaper accounts.

For an administration witness to talk about those events would give a great deal of authenticity to matters that could be harmful to the Nation with respect to other countries.

Mr. Chairman, shall I proceed with my statement?

The CHAIRMAN. Yes, of course.

Mr. CHRISTOPHER. I was simply going to say that the Iran rescue mission was an extraordinary event in several respects and for that reason really is not a precedent for the future.

It was designed to rescue hostages with the lowest possible risk. It was important that the rescue team avoid, rather than confront, the Iranian military forces.

It called for the continued presence of the rescue team in Iran for many hours without being detected.

All through this period, the hostages were in a highly vulnerable position in which any disclosure of the rescue effort underway could have cost them their lives.

Representatives of this administration testified before the committee in 1977 that we did not contest the War Powers Resolution and would work with the Congress to facilitate its implementation. The Iran rescue mission does not represent a departure from that policy. It represents only a judgment by the President in the very unusual circumstances that I have outlined. Consultation was not possible without jeopardizing the success of the mission and the safety of those involved.

Today, speaking for the administration, I would renew the pledge we made in 1977. We do not challenge the validity of the War Powers Resolution, which expressly provides that it does not affect the constitutional powers of the President. We will do our best to implement it in good faith.

Let me say, parenthetically, that I hope you may have been reassured by the testimony of one of your colleagues, soon to be my boss, in indicating his desire to comply with the War Powers Resolution and to implement it conscientiously.

Mr. Chairman, if I may, I will turn to consider the present situation in Iran. I would have to say that we should not have any illusions about the difficulties we face over the next weeks and months.

The CHAIRMAN. I wonder if at this point we could briefly pause.

There is a vote on upstairs. It is the Hollings motion to table the Hatch amendment to the budget resolution. This means, for most of us, that we will have to go up and inquire about what that means before we vote.

I wonder if we should recess for about 5 minutes—no longer than that—and then come back.

Senator HELMS. Senator Javits, we have the ranking members meeting.

Senator JAVITS. That is at 11 o'clock. I am inclined to leave now to find out what it is about.

The CHAIRMAN. I would ask all Senators who can return to please do so.

Senator HELMS. I do have a question or two which I want to ask and I will be back as quickly as I can.

The CHAIRMAN. The committee will stand in recess for about 5 minutes.

[A brief recess was taken.]

The CHAIRMAN. I think we should continue with the hearing. Other Senators soon will be coming back.

Senator STONE. Well, we have a quorum of the effective Senators.

[General laughter.]

The CHAIRMAN. Yes, that's right, Dick, now that you are here.

Senator BIDEN. I want the record to show that I was standing here, too.

[General laughter.]

The CHAIRMAN. Mr. Secretary, please continue.

Mr. CHRISTOPHER. Mr. Chairman, I was saying that we are dealing in Iran with a government with few of the attributes of power that we normally expect of national authorities. We are dealing with a country torn apart by continuing revolutionary turmoil, even a year or more after the revolution. In an important sense, our people there are hostages, not solely to the terrorists who took them at the Embassy, but

to the internal power struggles and rivalries in Iran. That fact I think becomes more and more a dominant consideration.

In these circumstances, the stern pressures we and others will apply will clearly take time to have an effect.

In these circumstances, I think we must be firm and determined, but we also must keep our poise.

All of our options remain open. All of our efforts will be directed toward the safe return of the hostages.

Let me describe to you how we see events over the next few weeks ahead. Experience has taught us to be very cautious and skeptical in describing likely events in Iran.

In the coming weeks, we may see the formation of a new Parliament and the formation of a more permanent government. The second stage of the Parliamentary elections is scheduled for tomorrow, and we hope the Parliament may meet by the end of this month or in June.

[Deleted.]

One of the hopeful signs is that Khomeini has assigned to the new Parliament the decision with respect to the hostages.

Our task in the weeks ahead will be to persuade the influential elements in Iran through the pressures of sanctions and through diplomatic means that a settlement of the hostage question is essential for Iran's future.

[Deleted.]

We have no assurance, I need to say with caution at this point, of when the Parliament will address the hostage issue or whether it will be prepared for an honorable settlement. However, we will make every reasonable effort in the period ahead to influence the leadership in Iran toward an acceptable consensus for the release of the hostages.

To this end, we are continuing to move forward with strong, collective economic and political sanctions to convince the Iranians that it is in their own self-interest to bring the hostage situation to an end.

In the past several days, the nine members of the European Community, the Japanese, and others have reaffirmed their support for broad economic and diplomatic sanctions against Iran. They are already taking steps to increase Iran's sense of isolation—by reducing their diplomatic presence in Tehran, by cutting back on the presence of diplomats from Iran in their own capitals, and by imposing new visa restrictions on Iranians.

We expect on May 17 that severe international trade restrictions against Iran will be imposed.

Our purpose in employing economic sanctions is to demonstrate, clearly and convincingly, to those in Iran that continuation of the hostage situation will be increasingly damaging to their own interests.

Our purpose here, our dominating purpose in a constantly shifting Iranian equation, is to establish one unalterable constant: as long as the hostage situation continues, things will get worse for the Iranian people.

The sanctions we have already imposed are having an impact on the Iranian economy. There are shortages of parts and materials essential to the healthy operation of the Iranian economy. Those effects will be more intense when others join in the sanctions in the next few weeks.

The Iranian leaders of almost all stripes understand that others, in-

cluding the Soviet Union, are not in a position to replace the United States, Western Europe, and Japan in supplying the necessary equipment for the Iranian economy to function.

They also understand, we think, that normal trade routes with the Soviet Union already are overloaded and have a limited capacity for expansion over the foreseeable future.

And, most important, Mr. Chairman, the Iranians know from bitter national experience that the Soviet motives in Iran are not benign. The price for greater reliance upon the Soviet Union, as their neighbors in Afghanistan have most recently learned, is their own freedom.

As economic hardship within Iran grows, those Iranians most fervently committed to the revolution and to Iranian national independence must confront the hard truth that the hostage situation threatens both their independence and their revolution.

The CHAIRMAN. Let me interrupt to say that this is a very logical argument and I hope it proves to be true. But it seems to me that, given the zealous nature of the revolution and the fact that the religious groups are going in all likelihood to dominate the legislature, the new Parliament, and that they see the revolution largely in terms of freeing Iran from Western corruption, Western values, Western influence, all of these measures may not affect them in the way that we contemplate at all.

It might simply harden their own resolve and give them the feeling that they are being true to the objectives of the revolution by resisting all of these pressures. In fact, it may very well become a matter of honor with them—the greater the hardship, the greater the—

Senator STONE. Martyrdom.

The CHAIRMAN [continuing]. Purity of their motives and the greater their zeal.

Moreover, the hostages themselves might well have become important to the revolutionary cause because it keeps the public mind distracted from these hardships, from the disarray within the economy, and keeps it focused on a foreign presence which serves the interests of the revolution.

Isn't that equally plausible with the thesis that you have put forward?

Mr. CHRISTOPHER. Mr. Chairman, I don't think it is equally plausible, but I would certainly say that it is a plausible argument. Many sincere, well-minded, well-intentioned people feel that the imposition of sanctions will not be an effective tool. A number of Europeans feel this, although their motives may not be entirely pure in this regard.

My best judgment, after looking at the intelligence and seeing the condition of their economy, is that collective economic sanctions will bring pressure on the Iranians to resolve this problem.

But I certainly agree with you, Mr. Chairman, that it is a closely balanced matter. It is a matter of judgment, one about which the President has thought a good deal. He believes we should go forward at this point with the sanctions as a way to impress upon the Iranians that there is a price to be paid for failure to resolve the hostage crisis.

Unfortunately, the second part of what you say is true, and that is that the presence of the hostages may serve the political interests of those in Iran who are trying to divert attention from their own prob-

lems. I think that is only a definition of why this problem is so bedeviling and so difficult to resolve, and has been for some time.

As I conclude my brief opening statement, Mr. Chairman, let me just make three final points.

First, we continue to hold the Iranian authorities fully responsible for the safety and well-being of our people. Their dispersal from the Embassy compound only highlights the responsibility the Iranian authorities have assumed for their safety.

Second, the Iranian people must understand that the threat to their revolution does not come from the United States. We would like to see a strong, independent, stable Iran. If this situation is resolved without harm to our people, the way will be open to develop a relationship that serves our mutual interests. Clearly, it is not possible for us to do so as long as our people are endangered and illegally imprisoned.

Third, we continue to need the full support of the Congress and the American people for a policy of determined pressure: for effective measures to end the crisis peacefully.

We deeply value the strong support we have received from this committee throughout the crisis. We have valued the regular meetings we have had with the Congress in small groups and in large groups since the situation began. As we move forward, I think it is even more essential to our success that we do so as a Nation united on this central matter. I speak for both myself as well as Secretary Muskie in assuring you that the process of regular consultation will continue and under his leadership I think will even be augmented.

So, as we address the events of the past few weeks, we do so with sadness for the Americans who lost their lives in the rescue mission, with praise for the courageous American soldiers who participated in that effort, with a continuing concern for our fellow citizens who remain hostage, and with an unbending determination to secure the freedom of our people from their captors in Iran.

[Mr. Christopher's prepared statement follows:]

PREPARED STATEMENT OF HON. WARREN CHRISTOPHER

Mr. Chairman, Members of the Committee :

I welcome this opportunity to discuss with you the difficult situation we face in Iran.

I.

From the very beginning of this crisis, we have pursued every peaceful means available to us to bring this agonizing ordeal to a successful conclusion—to free our people with honor. We have believed, and we continue to believe, that the Iranians must be convinced, through increasing international pressure and isolation, that they have nothing to gain, and a great deal to lose, by perpetuating and intensifying this crisis. At the same time, we have pursued every diplomatic channel that could lead to an honorable negotiated solution.

Throughout this period, the nation of Iran has been in a state of constant turmoil and change. For the first two and a half months, we were unable to establish any serious or sustained discussion with the Iranians. We took economic and other actions against Iran—cutting our purchase of their oil, freezing their assets in this country, blocking the sale of military equipment and parts. We pressed—in the United Nations, the International Court of Justice and elsewhere—for clear international expressions of condemnation that would underscore dramatically Iran's isolation.

When real opportunities opened for diplomacy in mid-January we pursued them seriously, carefully, and in good faith. We temporarily held back on our efforts to press for further international sanctions to give these diplomatic pros-

pects every opportunity to succeed. When these efforts finally broke down on April 7, because the Iranian authorities failed to fulfill the commitments they had agreed to, the President promptly moved forward with steps to increase steadily the price Iranians will pay so long as they deny our people their freedom.

It has been clear for some time, however, that such measures, and other pressures available to us, will take time to have an effect in Iran. As time goes on, the psychological and physical strain on the hostages grows; the damage being done to stability in that region and to international order increases.

Thus, for some months, the Government pursued a second, parallel path—a path which depended by its very nature on secrecy and surprise.

A rescue plan had been under development since the beginning of the crisis. Several considerations led to the decision to undertake a rescue mission at this time.

First, as I have outlined, it became increasingly clear after almost six months of diplomatic effort that the Iranian authorities were unable or unwilling to take action to release the hostages.

Second, we were increasingly concerned about the safety and well-being of the hostages in view of the unravelling of authority in Iran and the deteriorating security situation there.

Third, there were strong indications that the Iranian leadership would not address the hostage situation until an Iranian Parliament could be elected and begin to function. That date kept slipping backward; and there was no assurance that even after an election, the Parliament would move either expeditiously or positively to end the crisis.

Finally, a number of seasonal weather conditions would have turned against the mission if it had been delayed—wind, temperature, and hours of darkness.

II.

Before I turn to the present situation and the future outlook, let me emphasize two fundamental points about the rescue operation.

First, the effort was not a sustained military action against Iran. It was an anti-terrorist rescue operation for humanitarian purposes. It sought only the freedom of Americans held in protracted captivity in gross violation of international law and diplomatic practice.

Second, the operation was entirely consistent with both international and United States law.

In light of the armed attack against our diplomatic mission, the illegal seizing of our citizens, and the refusal of the government to secure their release, the United States acted wholly within its rights of self-defense under international law—specifically Article 51 of the United Nations Charter.

In ordering this operation, the President acted within his constitutional authority as Chief Executive and Commander-in-Chief of the Armed Forces. On April 26, he submitted a report to the Congress consistent with Section 4 of the War Powers Resolution.

The President concluded in this case that the success of the operation and the safety of those involved depended on total surprise. For this reason, he concluded that it was essential to limit knowledge of the operation to a very small number of individuals directly involved in planning and implementing the operation.

He therefore concluded that it was not possible in this instance to engage in the consultations under Section 3 of the War Powers Resolution. This was a difficult decision, but one which he considered essential under the extraordinary circumstances of this case. Had the operation proceeded, the President had planned to advise appropriate Congressional leaders before the next phase began.

In the view of the President's legal advisers the requirement of Section 3 of the resolution for prior consultations "in every possible instance" must leave to the President the responsibility for deciding whether consultations would be possible without jeopardizing such a vital operation. This interpretation is supported by Section 8(d) of the Resolution, which disclaims any intent to alter the constitutional responsibilities of the President. Thus, the President's decision was within his constitutional authority and responsibility, and was not contrary to the language or intent of Section 3 of the Resolution.

I want to emphasize that the Administration does not regard the extraordinary circumstances of this case as a precedent for avoiding consultations with the Congress; nor do we contend that the President is free to avoid consultations in any case where he desires secrecy.

The Iran rescue mission was an extraordinary event in several respects:

—It was designed to rescue the hostages with the lowest possible risk. Thus, it was important that the rescue team avoid rather than confront Iranian military forces.

—It called for the continued presence of the rescue team in Iran, without being detected, for many hours.

—At all times, the hostages were in a highly vulnerable position in which any disclosure of the rescue effort underway could have cost them their lives.

Representatives of this Administration testified before the Committee in 1977 that we did not contest the War Powers Resolution and would work with the Congress to facilitate its implementation. The Iran rescue mission does not represent a departure from that policy. It represents only a judgment by the President in very unusual circumstances that the consultation was not possible without jeopardizing the success of the mission and the safety of those involved.

Today, speaking on behalf of the Administration, I renew the pledge we made in 1977. We do not challenge the validity of the War Powers Resolution, which expressly provides that it does not affect the Constitutional powers of the President. We will do our best to implement it in good faith.

III.

As we consider the present situation in Iran, we should have no illusions about the difficulties our nation faces.

We are dealing with a government in Iran with few of the attributes of power we expect of national authorities.

We are dealing with a country torn apart by continuing revolutionary turmoil. In an important sense, our people are hostage not only to terrorists, but to internal power struggles and rivalries inside Iran.

In these circumstances, the stern pressures we and others will apply will take time to have an effect.

In these circumstances, and in the wake of the rescue effort, we must be firm and determined, but we must keep our poise.

All of our options remain open. All of our efforts will be directed toward the safe return of the hostages.

Let me describe how we see events in the weeks ahead.

In the coming weeks we may see the formation of a new parliament in Iran and the formation of a more permanent government. The second stage of the Parliamentary elections is scheduled on May 9, and the Parliament may meet at the end of this month or in June. At the moment it appears that the religious leaders are in the ascendancy, rather than the followers of Bani-Sadr, and may be the dominant force in the new Parliament and the government that will be formed.

One of the tasks which Khomeini has assigned to the Parliament is a decision on the hostage question.

Our task in the weeks ahead will be to persuade all influential elements in Iran through the pressures of sanctions and through diplomatic means, that a settlement of the hostage questions is essential for Iran's future, as they assume greater authority and responsibility for the management of Iran's affairs. As we pursue efforts to create a better understanding by Iran's leadership of its own self-interest and the rising costs of holding the hostages, we will also continue to build on the willingness to settle the issue which we earlier encountered from President Bani-Sadr and Foreign Minister Ghotbzadeh.

We have no assurance at this point when the Parliament will address the hostage question or whether it will be prepared for an honorable settlement. However, we will make every reasonable effort in the period ahead to influence the leadership in Iran toward an acceptable consensus for the release of the hostages.

To this end, we are continuing to move forward with strong, collective economic and political sanctions to convince the Iranians that it is in their own self-interest to bring the hostage situation to an end.

In the past several days, the nine members of the European Community, the Japanese and others have reaffirmed their support for broad economic and diplomatic sanctions against Iran. They are already taking steps to increase Iran's sense of political isolation—by reducing their diplomatic presence in Tehran, cutting back the presence of Iranian diplomats in their own capitals, and imposing new visa restrictions on Iranians. On May 17, severe international trade sanctions against Iran will be imposed.

Our purpose in employing economic sanctions is to demonstrate, clearly and convincingly, to those in Iran obstructing a resolution to this crisis that continuation of the hostage situation will be increasingly damaging to Iran's interests.

Our purpose, in the constantly shifting Iranian equation, is to establish one, unalterable constant: as long as the hostage situation continues, things will get worse for the Iranian people.

The sanctions we have already imposed are having an impact on the Iranian economy. There are shortages of parts and material essential to the healthy operation of the Iranian economy. Those effects will be more intense when others join in the sanctions in the next few weeks.

The Iranian leaders, of almost all stripes, understand that others, including the Soviets, are not in a position to replace the United States, Western Europe and Japan in supplying the equipment necessary for the Iranian economy to function.

They understand that the normal trade routes with the Soviet Union are already overloaded and have a limited capacity for expansion over the foreseeable future.

And, most important, they know, from bitter national experience, that the Soviet motives in Iran are not benign; the price for greater reliance upon the Soviet Union, as their neighbors in Afghanistan have most recently learned, is their own freedom.

As economic hardship within Iran grows, those Iranians most fervently committed to the Iranian revolution and to Iranian national independence must confront the hard truth that the hostage situation threatens both.

It was and is a reality that these pressures are not likely to produce as quick a result as the rescue mission could have. Nonetheless, strong, clear effective international pressures are more important now than ever before to drive home to the Iranians that their present course can only bring growing hardship for their people and continuing damage to their hopes for a strong, stable, unified, independent Iran.

As we look to the future, let me emphasize three final points.

First, we continue to hold the Iranian authorities fully responsible for the safety and well-being of our people. Their dispersal from the Embassy compound only highlights the responsibility the Iranian authorities have assumed for their safety.

Second, the Iranian people must understand that the threat to their revolution does not come from the United States. We would like to see a strong, independent, stable Iran. If this situation is resolved without harm to our people, the way will be open to develop a relationship that serves our mutual interests. Clearly it is not possible to do so as long as our people are endangered and illegally imprisoned.

Third, we continue to need the full support of the Congress and the American people for a policy of determined pressure: for effective measures to end the crisis peacefully. We deeply value the strong support we have received from this Committee throughout this crisis. We have valued the regular meetings we have had with Congress since this situation began. As we move forward, it is essential to our success that we do so as a nation united on this central matter. I speak for both Secretary Muskie and myself in assuring you that this process of regular consultation will continue.

As we assess the events of the past few weeks, we do so with sadness for the Americans who lost their lives in the rescue mission . . . with pride for the courageous American soldiers who participated in that effort . . . with continuing concern for the well-being of our fellow citizens who remain hostage . . . and with unbending determination to secure the freedom of our people from their captors in Iran.

Senator STONE. Mr. Chairman, may I ask a question, please?

The CHAIRMAN. Senator Stone.

Senator STONE. Secretary Christopher, why did we leak that we are planning another rescue mission?

Mr. CHRISTOPHER. I have to wonder about your premise, Senator.

Senator STONE. It came out in the press and there was no denial. It was "quoting senior officials," which is the standard euphemism for leaking—and there was no denial.

What is the theory of that?

Mr. CHRISTOPHER. Senator, I really cannot answer your question without accepting your premise. I do not know of any leak with

respect to another mission. Although all of our options remain open, we are concentrating in this period on the efforts to persuade the Parliament, through diplomatic means and through the imposition of collective sanctions, that it ought to settle the matter peacefully.

I really cannot take responsibility for all the leaks that appear in the paper, and I think I can assure you that there was no intention on the part of the President to have a leak with respect to another rescue mission.

Senator STONE. This is the last thing I want to say along that line and then will turn the discussion back over to the chairman.

As I understand it, when the first report came out in the press and then the administration was asked, the answer was that we are keeping all of our options open. This, by implication at the very least, confirms that we are planning another rescue mission attempt.

Is that the proper tactic to use if we are trying to persuade the new Parliament being organized in Tehran that it should take some civil response?

Maybe it is. I have an open mind on that. I just want to know why there was that answer.

Mr. CHRISTOPHER. Senator, there is a long gap between keeping all "your options open" and planning another rescue mission.

I think it would be unwise for the President to concede that he would not at some future point take any of the various options that are open to him.

On the other hand, I think he has emphasized that in the immediate future he intends to pursue the course that I have mentioned here.

I would have to say that I did not see the story and do not believe that it represents current administration thinking.

Senator STONE. Thank you.

Thank you, Mr. Chairman.

Senator HAYAKAWA. Mr. Chairman.

The CHAIRMAN. Sam, let me call on you in a moment. Warren, is the statement you are giving us unclassified?

Mr. CHRISTOPHER. No, sir, it is classified.

The CHAIRMAN. I would think that the part that relates to the intentions of the administration in the future to observe the War Powers Resolution and to consult ought to be made public. I don't know whether you used the same words as these, but this is a statement the President has made, this is a statement the new Secretary of State has made publicly, and I think it should come from this committee, too, that such assurances have been given.

Mr. CHRISTOPHER. Mr. Chairman, I see no difficulty in declassifying virtually all of the statement. We will try to look at it in that light and will get to your staff any changes.

The CHAIRMAN. If you could do that during the course of the hearing, I then could release the unclassified portion of the statement to the press.

Is that possible? It does not seem to me that there is much that is really sensitive in this statement.

Senator GLENN. Mr. Chairman, may I suggest that if this is classified material it should be so stamped. We had better be sure we scoop up all copies before people take them back to their offices. These are not stamped as classified.

The CHAIRMAN. Senator Hayakawa, did you wish recognition?

Senator HAYAKAWA. Yes, Mr. Chairman, thank you.

I would like to say to Secretary Christopher that I tend to agree with the administration's position about taking the minimum number of people into its confidence before embarking on this adventure. While I respect very much Senator Percy's, Senator Church's and Senator Javits' opinions in the matter, I still feel that this kind of judgment must be kept as secret as possible in order for it to have any chance of succeeding.

But here is another question that bothers me. Suppose the mission had been successful. Are there not many other Americans in Tehran or elsewhere in Iran who could have been taken hostage instead, in place of the ones they now have?

Mr. CHRISTOPHER. There are other Americans in Iran who could have been taken hostage. That is certainly one of the parts of the calculus that had to be considered by the President in reaching his decision.

Senator HAYAKAWA. And apparently it was decided that they would not be taken to replace the hostages who were to be recovered? What was the decision there?

Mr. CHRISTOPHER. It was the decision of the President to go ahead with the rescue mission, weighing all the pluses, minuses, and risks that were involved. No one could be certain what would happen in the aftermath of a successful rescue mission. But it was certainly one of the things the President had to weigh, Senator.

Senator HAYAKAWA. In the weighing of those risks, then, he decided to take that chance?

Mr. CHRISTOPHER. That's correct.

The CHAIRMAN. Senator Helms.

Senator HELMS. Mr. Chairman, I don't really see how we can make an assessment with regard to the War Powers Act unless we do talk with Colonel Beckwith.

Let me say to Warren Christopher that I have no obsession about the act. I would prefer, on my part, for it to be an informal arrangement, and not having it bound by law.

Speaking as one Senator, I have no quarrel with the way this was handled. Certainly it would be folly to even have run the remotest risk of having the thing so disastrously fail.

May I ask you, sir, when do you understand that the President was informed there was technical readiness on the part of the rescue team?

Mr. CHRISTOPHER. Technical readiness?

Senator HELMS. Yes, sir.

Mr. CHRISTOPHER. [Deleted.]

Senator HELMS. [Deleted.]

Mr. CHRISTOPHER. [Deleted.]

Senator HELMS. [Deleted.]

Mr. CHRISTOPHER. [Deleted.]

Senator HELMS. Mr. Chairman, would it be presumptuous to ask Mr. Christopher to ascertain, to the best of his knowledge, if there were not an earlier date when technical readiness was determined?

Mr. CHRISTOPHER. I will, of course, do anything the committee asks. I think you are getting into a realm of military issues and perhaps ought to call Secretary Brown.

Senator HELMS. Yes, I agree.

Mr. Chairman, that is the reason I wrote you the letter I did, and I appreciate your response of May 6. I would like that to be made a part of the record, that is, the chairman's reply to me. I had requested that Colonel Beckwith be called as a witness before this committee and certain other documents, if available, be made available to the committee under Code Word circumstances.

[The letter referred to follows:]

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., May 6, 1980.

HON. JESSE HELMS,
*U.S. Senate,
Washington, D.C.*

DEAR JESSE: I have your letter of April 29 suggesting that the Committee call as a witness Colonel Charles A. Beckwith, USA, in urging the Committee to check various tape recordings and written transcripts of conversations surrounding the attempted rescue operation.

As you know, when the Committee met on April 29, it was decided that the first Committee briefing or hearing on Iran should be confined to the question of consultation over the war powers legislation and to future U.S. policy with regard to Iran. That hearing will take place on Thursday, May 8. This will be an important first step in our consideration of the Iran situation although Members will certainly not be constrained from addressing issues at the May 8 hearing.

To the specifics of your request, I have notified the Department of Defense of your interest in Colonel Beckwith (who now seems to have become a public figure) and, of course, in your interest in the pertinent tape recordings and written transcripts.

With best wishes,
Sincerely,

FRANK CHURCH, *Chairman.*

Senator HELMS. I, for one, cannot make a judgment on the War Powers Act unless I know more about the situation.

I know that you are testifying in absolutely good faith, Warren, but there may be things that you don't know that we ought to know in order to make an assessment on this.

Mr. CHRISTOPHER. Absolutely.

The CHAIRMAN. I think it would be appropriate at this point, Senator Helms, for me to read into the record for your information and for that of members of the committee a letter that I received from John Stennis.

Let me say that I received a letter from John Stennis which I want everyone to hear.

It reads: "Dear Mr. Chairman: The two of us should have had a conference before now, but you have been quite busy indeed and I have been trying to keep up with our military authorization bill as well as some appropriation matters.

"Regarding the matters in Iran and the rescue mission, I think we have had a clear, firm understanding among our membership"—and I take it by that that he means the membership of his committee—"that although there may be some overlaps in the testimony from time to time, we will not go into the question of War Powers, but will stay within the areas of the military activities. I know that you and your members on the Foreign Relations Committee generally feel that your concern and your inquiries are primarily in the field of foreign policy, and our interests are, in turn, in the areas of the military activities.

"I am sending you this note as evidence of our recognition of the division of jurisdiction and to say that if anything comes up, you and I will confer from time to time.

"With all good wishes, I am your friend. Sincerely yours, John C. Stennis."

I would ask that this letter be included in the record at this point.
[The information referred to follows:]

UNITED STATES SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., May 2, 1980.

HON. FRANK CHURCH, *Chairman,*
Foreign Relations Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: The two of us should have had a conference before now, but you have been quite busy indeed and I have been trying to keep up with our military authorization bill as well as some appropriation matters.

Regarding the matters in Iran and the rescue mission, I think we have had a clear, firm understanding among our membership that, although there may be some overlaps in the testimony from time to time, we will not go into the question of War Powers, but will stay within the areas of the military activities. I know that you and your members on the Foreign Relations Committee generally feel that your concern and your inquiries are primarily in the field of foreign policy, and our interests are in turn in the areas of the military activities.

I am sending you this note as evidence of our recognition of the division of jurisdiction and to say that if anything comes up, you and I will confer from time to time.

With all good wishes, I am your friend.
Sincerely yours,

JOHN C. STENNIS, *U.S. Senator.*

Senator HELMS. Mr. Chairman, I am not being argumentative at all, but the problem is I don't see how the Foreign Relations Committee can make a judgment relating to foreign policy unless it knows the details of what really happened.

Second, I think that inasmuch as this has been described as a rescue mission and not a military mission it is fair game for us. I don't see how Senator Stennis, as much as I respect him, can have any objection to our looking into the deeper aspects of it, such as the technical operation of the mission.

I am not trying to find a scapegoat. I praise the President for having attempted this. But the fact remains that there are implications here that this committee, as part of its responsibility, has to study very carefully.

I respectfully would like to request that the chairman consider my request again and see how it comes out.

The CHAIRMAN. I will do so. I have introduced his letter as an expression of opinion from Senator Stennis. But I think that we had reached an understanding earlier that today we would limit ourselves to a discussion of the War Powers Act, and then the committee can decide how it should proceed with further investigation of the mission itself.

Senator GLENN. Mr. Chairman, may I ask Senator Helms this question?

Is the implication that you think having Beckwith would indicate whether their mission was to go beyond anything in the War Powers Act or that it would go beyond a rescue operation?

Senator HELMS. In part, yes, sir. That would be part of my interest in having him appear before us.

Senator GLENN. I think as far as going into the details of which helicopter did what and so on is concerned, they appeared some 8 or 9 hours yesterday before the Armed Services Committee. I sat in on a couple of hours of that late yesterday afternoon. I think all that information is infinitely more complex, and in more detail, than we are going to be interested in, and it already is available in their testimony. That could be made available to this committee without calling Beckwith here. Those guys have been through a lot. They were up all night last night briefing the JCS. I think they had about 5 hours of sleep in the last 72 hours.

I don't want to be pursuing them unless there is some real reason to do it.

Senator HELMS. If the Senator would yield, I don't want to chase any rabbits either. But I am saying that there are aspects, beyond the technical aspects of the rescue attempt itself, that I think we ought to explore in due time and at the Code Word level so that I can be satisfied about it.

The CHAIRMAN. This is a matter I will put up to the committee at the appropriate time for the committee's decision.

Senator JAVITS. Jesse, would you yield?

Senator HELMS. Yes.

Senator JAVITS. It is possible that if the committee decides that comity with Armed Services does not permit us to look into it as a committee, there is still a tradition here. I am sure it would be honored by John Stennis that if you, as a Senator, Jesse, wish to look into the matter and the information is vested in the Armed Services Committee, I doubt very much that it would be denied you.

As a matter of fact, if there is anything I can do, I would be glad to help.

Senator HELMS. I would not have a chance to ask questions over there.

Senator JAVITS. You could always ask questions directly of the DOD. Listen, we have a lot of power as Senators.

I only say this as a contingency because, frankly, I would not want it made a big jurisdictional issue between the committees, unless you feel you must, in which case I would certainly honor your desire.

Senator HELMS. I don't want to do that, Senator. I assure you that I respect the comity of the Senate and would not want to do that.

Mr. Chairman, may I go afield for just one question?

The CHAIRMAN. Surely.

Senator HELMS. Warren, would you tell me if there was anything more to the President's decision not to attend the Tito funeral? I frankly am bothered by this in terms of those people and their reactions.

Is that all there is to it, what the President said in explaining his reasons for not going?

Mr. CHRISTOPHER. Yes, Senator Helms.

As you know, Tito's death has been expected for a long period of time and the funeral delegation has been under consideration.

Some time ago, the President, when he was still committed not to leave the White House or the Washington area decided that the delega-

tion would be headed by Vice President Mondale. He informed the Yugoslavs of that fact and they expressed no hesitancy about it at all.

When the news of Tito's death came last Sunday afternoon at about 3 o'clock, the President simply activated the plan that he had in place before, which is to have Vice President Mondale head the delegation.

When we heard that the Yugoslavs desired to have somebody representing the financial community present, the President asked Secretary of the Treasury Miller to join the delegation.

I think there is nothing more to his decision than sort of a pre-arranged or pre-packaged decision as to what the funeral delegation may be.

Senator HELMS. This may be an unfair question to ask you and if it is, please say so. Are you confident that this did not have an adverse effect on the nonaligned situation over there?

Mr. CHRISTOPHER. Senator, I don't think it will have any prolonged or sustained effect. I think the Yugoslavs know the support of the United States for their independence and integrity. The Vice President, Governor Harriman, and others on that delegation will make that abundantly clear.

I think it is what we do over the longer pull that will affect the Yugoslavs.

As I have said before, I think, to this group, the danger period is not today or tomorrow. I would say that the danger period begins 6 or 12 months from now. I think the Yugoslav Government is prepared to cope with the immediate transition. It is what happens later that will be crucial.

We will be taking steps to make not only the Yugoslavs know, but the world know of our determination to stand with them in the preservation of their integrity.

Senator HELMS. Thank you.

Thank you, Mr. Chairman, for your patience.

Senator ZORINSKY. Mr. Chairman.

The CHAIRMAN. Yes, Senator Zorinsky.

Senator ZORINSKY. Warren, even though this may not be germane, I feel it is inasmuch as you mentioned in your statement our future relations with Iran, the political sensitivity in the aftermath of an attempt to release the hostages.

Can you tell us how much classified information was left behind in the helicopters' code books—plans, briefing papers, newly developed weaponry, or anything else?

The point I am making is that it is going to come out some day and we might as well assume that it is in the hands of the Iranians. I would hate to see a terrorist running around with a code book and a United States Senator not even knowing that he has it.

I don't want to be in a position with my constituency or any American to be unknowledgeable about what we left there.

Mr. CHRISTOPHER. [Deleted.]

Senator ZORINSKY. [Deleted.]

Mr. CHRISTOPHER. [Deleted.]

Senator ZORINSKY. Thank you.

The CHAIRMAN. Senator Percy.

Senator PERCY. Thank you, Mr. Chairman.

Secretary Christopher, are any preparations being made for another rescue mission, even though a decision on such a mission may not have been made? Are there preparations underway?

Mr. CHRISTOPHER. [Deleted.]

Senator PERCY. I will ask you questions and if you cannot respond, I will understand.

Are any preparations being made to impose a naval blockade or to mine any Iranian harbors?

Mr. CHRISTOPHER. [Deleted.]

The CHAIRMAN. I assume that when you give assurances prior to such an action as a naval blockade, the mining of harbors, or anything of that kind, that the appropriate consultations would occur.

Mr. CHRISTOPHER. Mr. Chairman, the President has made a sharp distinction between the need for secrecy and surprise and a rescue mission and the different aspects of either mining or a blockade. By their very nature, they would permit consultation that was not acceptable or not feasible in his mind in connection with a rescue mission.

So I think that his assurances given to you in the White House with respect to consultation on that subject remain valid and important.

The CHAIRMAN. Thank you.

Senator PERCY. I have taken the position that we should stand together on everything we do in the Iranian situation and in Afghanistan. I have fully supported the sanctions against Iran and fully supported every action—the grain embargo, Olympics embargo, and so on—against the Soviet Union. I do think we have to stand together. I think we all have tried to urge our allies to stand with us on this.

I do have one concern which I would like to express. It gnaws away at me a little bit. It concerns whether or not the economic sanctions and the tightening of the screws on Iran could lead, as some have said, to a destabilization which might result in a Communist or procommunist regime and give the Soviets a golden opportunity to go in to stabilize the situation.

I am sure this has been thought through in the Department. Could you comment? It has been said by some eminent authorities that what we are really doing is driving Iran into the arms of the Soviets. I would appreciate a more sophisticated response to that.

Mr. CHRISTOPHER. Senator Percy, that is a risk that certainly has to be weighed. One of the great advantages of the rescue mission was the prospect that it held for bringing this tragic chapter to an end and enabling the Iranians to turn to rebuilding their country and to facing the threat from the Soviet Union.

One of the most unfortunate aspects of the failure of the mission—not the most unfortunate, but one of the most unfortunate—is it prolongs the crisis from the standpoint of the Iranians as well as from the standpoint of the Americans.

However, I think when you weigh it all out in the balance, the increment that our sanctions adds to the deterioration of their economy is not so great that we should not continue to put that pressure on and hope that they will see need to resolve the problem.

[Deleted.]

Senator PERCY. I will continue to support it so long as it is the judgment that it will be a net plus.

Mr. Chairman, I have one further question on the rescue mission. I really would like to put the question and get the benefit of the counsel of my own colleagues so that we, in a sense, can determine whether the present policy is right or not. It is a matter related to the Iranian issue.

We now have a situation where, because of the current state of affairs, Iranians who have been students in this country have been put under considerable pressure. Many times they have encountered the attitude that as long as they are Iranian, they are enemies of the United States.

Some of these students are themselves or from families that have been staunch friends of this country for 30 years and have stood by us.

There is an increasing bitterness on the part of these Iranians that suddenly, as we open our arms to anyone and everyone, it seems, from Cuba, Haiti, and elsewhere, we have issued an order that an Iranian who was a student in this country and happened to be out of the country cannot get back in, no matter what.

It might seem as though Iranians were pouring into the country, but the actual figures are quite the opposite. The State Department says that in the period November 4 to March 9, 11,079 Iranians entered whereas 12,697 departed. So there was an actual drop in the number of Iranians in this country.

The present situation is that Iranians are all put into one category and not treated on a case-by-case basis.

My question to the Secretary is this. Is it still right, in view of the fact that you have deep divisions inside Iran and among Iranians outside the country—there are those who are sympathetic with Khomeini and the radical elements and there are those who are violently opposed to what he is doing and what is being done in their country and are ashamed of what their country has done—for us to do this? Is it possible to consider cases on a case-by-case basis regarding whether they should or should not be permitted to come back into this country as students, businessmen, or whatever, as they were for so many years, rather than having a blanket policy?

Is there any counsel or any feeling that any member of the committee has on this? I would not want to represent my views as a committee position because we have never talked about it. But it is my deep feeling that we ought not to turn our back on all people just because they are Iranians and embitter these people, as I have seen happen.

The CHAIRMAN. May we have the Secretary's response?

Senator JAVITS. I was going to suggest that we have the Secretary's response as to what is the policy. I have had comparable complaints that some of our country's most devoted friends were suffering most from these categorical denials, right down the line, with no machinery, which is the important part, for screening.

Mr. CHRISTOPHER. The position of the administration as announced by the President in early April is that all Iranian visas for entry into the United States would need to be revalidated. I think that is a rather euphemistic way of saying that all existing visas, which quite often are good for a year or even longer, no longer are valid and have to be re-issued, in effect, or revalidated.

Now the standards for revalidating them are basically two-fold. First, there are humanitarian reasons, which include medical reasons, close family ties, and other humanitarian reasons. Second, there are those who would fall into the category of it being in the national interest for them to be admitted.

Other Iranians who are seeking to enter the United States either by getting new visas or having their visas revalidated are not being admitted.

This is a policy that is being carried out by the consular officers at the State Department in conjunction with the Immigration and Naturalization Service. It is a policy that unquestionably in individual circumstances does work hardships.

Senator PERCY. Is that policy subject to advice from the Senate Foreign Relations Committee? Senator Javits and I feel strongly about it. Perhaps others might.

The CHAIRMAN. We could always give our advice, of course.

Mr. CHRISTOPHER. In effectuating that policy, I might say that, as far as I know, if a student sought to come into this country and he had no stronger reason simply than his wanting to return to one of our colleges and universities, that would not be regarded as a basis, in and of itself, for making an exception to the policy.

Senator PERCY. If, for instance, a student who has been here, has been a person without blemish in his record, if his devotion to this country has been demonstrated, and if he can demonstrate that his sympathies always have been with America and are totally contrary to what is going on over there, why should that individual be discriminated against just because he is caught up in this sort of thing? For no other country on earth do we treat people like that. That does not seem to be consistent with our treatment of human beings and individuals and their human rights.

Mr. CHRISTOPHER. It is with no great pleasure that we have embarked upon a policy of isolating Iran, but it is part of the policy of isolating Iran that we are not permitting people to travel from Iran to the United States as freely as we do with most of the other countries of the world.

Senator PERCY. Let's say these people are not in Iran and do not feel they can go back under the present circumstances and just happen to be out of the country.

I can see the personal hardship it causes. It is totally inconsistent with their feelings that their country really is turning its back on some of its staunchest friends. After all, they stand up for us, even though it is at great risk to themselves, such as loss of property and everything else.

I do not want to belabor the point, Mr. Secretary, but I would urge that this policy really be looked at again as to whether or not it is proper. Directives went out to embassies around the world clarifying what the policy was—that they look upon such cases with compassion and understanding, and should look at manifest ties and where they would return at some point, after this is all over. Maybe the applicant is otherwise qualified.

It seems that the directive that went out originally, marked as late as March 20 or March 30—I cannot read the date—gives our consulates

leeway. Then something happened that I am not familiar with in that interim period that put them all into one category.

Mr. CHRISTOPHER. On about the 7th of April, when it was clear that the negotiating track did not hold any immediate promise, the President put into effect a number of sanctions in order to isolate and cause the Iranians to carry a heavier price for the holding of our hostages.

Senator Percy, I know the hardship cases. A number of them have been brought to my desk. But I must say that I don't know of any single action that brought more criticism to the State Department than the fact that 11,000 Iranians had come into this country on visas during the year 1979, after the hostages were taken. We were lambasted from pillar to post for a visa policy that was described as being unnecessarily sympathetic and friendly to the Iranian people at a time when our people felt otherwise.

I would be very glad to take back to Secretary Muskie and the President if it is the view of this committee that the policy is being too harshly administered.

The CHAIRMAN. Before you do that, let me say that some Iranian students at the University of Idaho were caught by this while on a field trip in Canada and cannot get back into the United States. There is a big row over that at the university among the students.

I presented the case to the State Department. I accepted the State Department's view that there could be no exceptions on the basis of the fact that once you started making exceptions, the policy becomes eroded away. So, on that basis I have sided with the State Department in this instance.

Senator PERCY. Might I suggest that we have two categories, if it makes sense. Just cut them all off coming directly from Iran to the United States. But if they were out of Iran and if after an analysis of their cases they do not in any way show evidence of having been unfriendly to the United States, that could be another matter. You could even say they must demonstrate a positive attitude toward us so that they would not be discriminated against.

Well, I have labored the point too far. I would appreciate your consideration and taking at least the feeling of a couple of us back.

The CHAIRMAN. Senator Pell.

Senator PELL. Thank you, Mr. Chairman.

Let me follow up for the moment two of Senator Percy's questions.

First is the question of the refugees and the visas. Having been a consular officer, I know that it is very hard to find really positive evidence. It is a very subjective business when you are giving visas.

I sympathize with Senator Percy's thoughts. But I must say that I agree with the Secretary that we have been lambasted from here to Kingdom Come for giving too many visas to Iranians.

You were even lambasted when you briefed the Senators upstairs on this, as I remember.

So I think you are between the devil and the deep blue sea on this one. If one could make these fine distinctions, it would be great.

I want also to follow up another thought of Senator Percy's, that of possibly pushing Iran, by an embargo, into the arms of Russia. As I understand it, there is a good road service to Russia, a good railroad

service, and a good boat service across the Caspian Sea. Isn't that exactly what will happen? All of their trade, all of their food, everything they need will come from the Soviet Union. I don't see how it can be avoided if we mine their harbors and completely blockade them.

Mr. CHRISTOPHER. Senator, our information is that the normal trade routes from the Soviet Union already are overloaded and they would have only a limited capacity for carrying additional materials in the foreseeable future. The railroad is a very poor railroad and is not capable of carrying any more than it presently is carrying. Indeed, I understand that it is booked for the next year.

The roads are very poor. The network of roads in Iran, as I understand it, basically fans out from the ports in the south to the north, rather than involving a substantial network back from the Soviet Union.

I certainly could not rule out the fact that they will get some overland assistance from the Soviet Union. But, nevertheless, that does not seem to us to undercut the value of the sanctions or to have the capacity to do so.

Senator PELL. Could you give me a reasonably categorical reply and send it up to us on this. If the present means of transportation were in full use on a 24-hour-a-day basis, with double or one-way traffic, would it be a fact that all of Iran's needs could be met by the Soviet Union?

Mr. CHRISTOPHER. I would give you a reasonably categorical reply that it would not.

This is both because of the lack of transport capacity and also, Senator, because you are dealing with products that are basically either American or Western made. The spare parts that are necessary are for machines that were made in the United States or Western Europe. There is not a quick adaptability to that in the Soviet Union.

The production of oil in Iran is dribbling down to the point where it is only a little more than a million barrels a day and Iran itself requires almost 800,000 barrels a day. So the amount available for export is only a small fraction of what it was earlier.

Now this is not by accident. In considerable part it is because they have not been getting the spare parts from the United States.

That kind of event gives us a certain amount of leverage with Iran. Our judgment, our betting has to be that this will finally come home to the people who are trying to maintain the independence of that country.

Senator PELL. Let me return to Senator Percy's point of the visas for a moment. I do not want to indicate a lack of sympathy with Senator Percy's views, but I think if you could differentiate between the different kinds of Iranians and get that point across to the American public, it would be the humane and decent thing to do.

Mr. CHRISTOPHER. Senator, I think you in particular would appreciate this. If we established a test for their sympathy for the American people, I expect that there would not be many who would present themselves for visas who would not assert that.

Senator PELL. As I said, as a former consular officer, I am aware of the difficulties involved.

As you know, some of us have been very concerned about the closing of several consulates, which we think is a false economy. For instance,

from the consulate in Turin we get \$300 million worth of trade a year and it costs us \$300,000 to operate. Regarding the consulate at Salzburg, you know the statistics. You know the arguments back and forth.

An amendment is being presented to the supplemental authorization bill of the State Department this coming week and I would hope the President would not insist on closing these consulates on May 15. We believe that this one will be thought constitutional. As you know, the last one he said was unconstitutional in that it interfered with his power to appoint consuls.

Is there any possibility, taking into account the Congressional interest and the amendment, to hold up a little bit until we see what happens to this amendment?

Mr. CHRISTOPHER. Senator, I do not want to speak to the constitutionality of the new statute because I am not knowledgeable on that subject.

I would say, in the budgetary circumstances where the President finds himself, he simply regarded that as something that ought to be done. It is very painful for us. In many ways it is a disadvantage to the United States. But we are having to do a lot of things that are very painful and difficult in this year.

Senator PELL. This seems to me to be one of the biggest examples of cutting off our noses to spite our faces. Also, it is conceivable that Secretary Muskie may have different ideas on that. He has been exposed to these arguments, and we had a discussion on that. I hope thought might be given to that.

Finally, in connection with the hostages, where and how well treated are the hostages now in Iran? How much American press remains there at this time? How many Americans would be at risk or are at risk if we are successful in a military way in getting out the hostages who are there? This was one of Secretary Vance's arguments that was reported in the public press.

Mr. CHRISTOPHER. We do not know the whereabouts of the hostages at the present time.

Senator PELL. Do you know how many areas roughly they are in?

Mr. CHRISTOPHER. We do not know how many areas. We have fairly good indications that they have been moved to at least two other sites.

One of our highest priorities will be to ask our European allies, through their embassies and through whatever channels we can find, to identify where the hostages are.

It seems to me that the Iranians have a new, and even heavier, responsibility to let us know where the people are being kept and under what circumstances. It is an absolute minimum of civilized decency to let the families of the hostages know where they are and under what circumstances they are being kept.

I cannot imagine that a country which professes to be religious would not feel an obligation to do that, although there have been some very unimaginable things that have happened in Iran in the last several weeks and months. The most recent one which comes to mind is their handling of the bodies.

Senator PELL. How many American members of the press corps are there?

Mr. CHRISTOPHER. I can't tell you how many there are today. But I had reason to be concerned about them roughly 2 weeks ago. There

were around 18 to 22 at that time. It is a number that changes rather rapidly, Senator. The networks are involved in a rather rapid rotation because of the pressure of the work there in Iran and the numbers might go up or down.

As you know, we have encouraged them to reduce the numbers. It is somewhere in the area of 20, or it was when I had reason to inquire.

The number of other Americans there is relatively few. There are a few missionaries who remain in a school there and there are Americans who go in and out for their own reasons, much as we try to dissuade them from going.

I would think at any given time there is only a handful. Again, it is probably in number about a score.

The CHAIRMAN. Has a woman correspondent been seized and charged with being a CIA agent?

Mr. CHRISTOPHER. That is a report we have. We do not have any confirmation of it.

As you know, the Swiss now represent us in Tehran and we have asked for information about that, but they have not been able to get anything.

Senator PELL. One of the arguments reported in the press was that Secretary Vance felt there might be as many as 200 Americans seized in retaliation had we been successful and gotten our 53 hostages out.

Was that argument, as reported in the press, correct or incorrect?

Mr. CHRISTOPHER. So far as I know, Senator, Secretary Vance has not spelled out the reasons why he opposed the rescue mission, and I certainly do not intend to try to do so on his behalf. Some people may have anticipated what his reasons were, but I do not believe he has mentioned them publicly, and so I would not want to get into speculation about them here.

Senator PELL. But your thought is, taking both the journalists and the other Americans who are there, it probably would be about 40 people, and not more than 100 certainly.

Mr. CHRISTOPHER. That's right. But I also would have to say that the number varies quite rapidly and quite radically. It depends upon the willingness of the Iranians to admit them.

As you know, at the present time, they are trying to organize some sort of conference of world leaders to consider the validity of the rescue mission. They have invited a number of people, including, I gather, some Senators. If that conference were to go ahead on the 10th of May—maybe it is the 15th—you might find the number increased quite substantially.

Senator PELL. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. I will call first on Senator Glenn and then on Senator Stone.

Senator GLENN. Thank you, Mr. Chairman.

Let me start off on a personal note, Mr. Secretary. There has been much speculation as to your own plans for the future.

I personally hope that the new Secretary asks you to stay and that you accept. I say this not only because I admire your ability in the job and how you have conducted yourself in relations with the committee and with other countries, but also because you provide a stability and

continuity in this transition period that I think would be welcomed by our allies. So my preference is more than for personal reasons.

I have heard nothing but good things about your tenure in the State Department. I hope you are asked to stay on and that you accept to play what I see as a very vital role in the State Department, particularly in this time period, and I hope for a long time to come.

Mr. CHRISTOPHER. I appreciate those kind remarks, Senator.

Senator PELL. If the Senator would yield, I would like to associate myself on the record with those remarks. I have already spoken privately about this with the Secretary.

The CHAIRMAN. And I, as well.

Senator GLENN. I agreed strongly with the administration decision not to consult with the Congress on this particular case because I felt it was a rescue. It was to be in and out and not a sustained action.

But it does raise some questions about notification and consultation in the future and how this will be carried out. I think that was one of the matters we were hoping to do some work on here today. There are some other areas I wanted to mention, too.

The staff memorandum that was prepared for us, and the letter that Senator Church and Senator Javits sent to the Secretary of State regarding the War Powers, indicated advance consultation with the established committees of the Congress—the appropriate committee here is the Foreign Relations Committee—and additional consultations with the leadership, other committees, and individual members are not precluded. But that would be complementary to consultations with the Foreign Relations Committee under the law.

I guess my first question would really be addressed to Senator Javits.

Would that be interpreted to mean the whole Foreign Relations Committee? Consultation has never really been defined adequately. Is it notifying you and Senator Church? Is it notifying Bob Byrd? Of what does consultation consist? I am not clear on that.

Senator JAVITS. Consultation was defined by me, as the author on June 4, 1975, when I testified before the House Foreign Affairs Committee, as being the following: "The prior consultations required under the law should be conducted with the Committees having legislative jurisdiction, meeting in their formal capacities as Committees of the Senate and House of Representatives." Subsequently, in the Conference Report on this particular measure, the issue was referred to as follows: "Consultation: The House Joint Resolution"—this is in the Conference Report 93-547—"provided for Presidential consultation with the Leadership and appropriate Committees of Congress before and after the President introduced United States Armed Forces into hostilities or situations of imminent hostility. The Conferees modified the House provision to provide for consultation with the Congress. Section 3 of the Conference Report is not a limitation upon or substitute for other provisions contained in the report. It is intended that consultation take place during hostilities, even when advanced consultation is not possible."

Then, when I debated the Conference Report in the "Congressional Record" of October 10, 1975, S. 18986, I said as follows, with reference to the same section—I would like to read the preceding section because it bears on what Warren testified to—"The consultation requirement is

not discretionary for the President. He is obliged by law to consult before the introduction of forces into hostilities and to continue consultations so long as the troops are engaged. This section does take account of the contingency that there may be instances of such great suddenness in which it is not possible to consult in advance. In such situations, the actions of the President would still be governed by the declaration of authority in Section 2(c)."

I wanted to give the authorities first, John, because you are entitled to them and can construe them as you will.

My understanding of the situation would be this. Consultation with Congress means consultation with the appropriate committees. However, if the circumstances indicate that Congress should be content with consultation, one, with the leadership, or, two, with the leadership plus the chairman and ranking member of the appropriate committees, beginning with the Foreign Relations Committee, then that is something which relates to what we call the political relationship between the Congress and the President.

In short, if the President chose in a given situation to call in only the leaders and to consult with them, we would have a right to complain as a Congress. But I believe that the likelihood would be general agreement with some limitation upon the statement "consult with the Congress" to include the leadership if we were satisfied that under the circumstances that was adequate.

In short, "the Congress" does not mean 535 members. "The Congress" does not mean only the required committees. "The Congress" does not mean only the Foreign Affairs and the Foreign Relations Committees. When you get beyond that, to wit, the leadership, there is nothing left. But "the Congress" certainly does mean that you cannot intimate to Bob Byrd, as the President did, that something was afoot. That is where I definitely would draw the line.

Senator GLENN. I agree with you completely in that, but I don't know how far you take it beyond that. That is still not very clear.

For instance, if the President called you and Senator Church over some night and said, "We're thinking about mining and I want to consult with you on this, but we want to keep this quiet because it is going to be a big surprise. We don't want our airplanes endangered when they are going in. They may put up aircraft in opposition and may shoot some people down. If we do this by surprise, very rapidly, it will be over and finished in 2 hours. I want you to keep this just to yourselves."

Now, would you feel that you could do that; would you feel that filled the bill for congressional consultation required by the War Powers Act?

Senator JAVITS. My answer to you is no, and if we did it, our necks would be on the line. In other words, if Frank and I in consultation decided that we really could not share this with the committee—and I don't want to sound ridiculous here and I don't feel ridiculous—but I feel such a situation might compel us to resign from the Senate—you know, if it were that serious.

Our necks would be on the line. This is not a job that is a free ride. That is the way I feel about it.

The CHAIRMAN. A gross mistake in judgment in such a case could lead the Democratic Caucus to take action, too, because that is where

the prerogative of the entire body should be exercised, and the prerogative of the Democrats.

Senator JAVITS. Let me add one more thing, John.

I think we should use this situation to codify some practices, both in the committee and maybe in the whole Senate.

I thought, frankly, that it would be my view to introduce a resolution that it is the sense of the Congress that the President acted improperly in this case. But I could easily be persuaded that the thing to do, instead of hashing over the old—which is a problem, with the Iranians and so on—is perhaps to use this as a basis for trying to have some codification of how this thing works. Pretty clearly, this is a very interesting, important, and guiding case in point.

Senator GLENN. I agree with you. I would hope you would not go the resolution route, for only one reason. I think we can clarify it—or codify it without a resolution. We are already perceived by our allies as being so disjointed that we don't know what is going on. I think introducing a resolution and having a big debate like that on the floor would exacerbate that feeling, and for no purpose that we could not accomplish by other means.

So, I would hope we would not go that resolution route.

Warren, would you share with us your views on this. What do you consider adequate consultation? I know of your interpretation on the rescue and agree completely with it. I back you up. If I had been on that mission, I would not have wanted consultation over here.

But if there is a situation like the mining or a blockade, in which the President has stated over and over again, that we will be consulted, what would you consider adequate to meet the letter and spirit of the law?

Mr. CHRISTOPHER. First, Senator Glenn, let me say that I think it is, at least on the threshold, a legal question on which the President would have the advice of the Attorney General and his Legal Counsel.

Speaking beyond that of my own views, I would have to say that it depends upon the circumstances. It is very hard to analyze all the circumstances in advance that might affect the decision.

There are varying degrees of secrecy. There is a whole spectrum of the need for surprise and secrecy. This one was at the very outer limit of the need for surprise and secrecy.

Senator GLENN. I understand that.

Mr. CHRISTOPHER. There would be gradations of that, and that would depend upon the degree of consultation.

I believe what the President would do in this kind of situation where he felt consultation was feasible would be to go to the leadership of the Senate—that is, the majority leader and the minority leader—and to the leadership of the House—that is, the Speaker and the minority leader—and disclose his intentions to them, and probably seek their counsel as to how much further he should go.

He would probably be told by them that he should speak to the chairman and ranking member of one or more committees.

Senator GLENN. If I could interrupt you at this point, I think this is important. If he had consulted with Byrd, Baker, and the Speaker and minority leader over in the House, do you feel that would take care of “consulting with Congress?”

Mr. CHRISTOPHER. I would say that it would depend on the kind of situation it is, and it would put a very heavy burden on those officials—

Senator GLENN. It sure would.

Mr. CHRISTOPHER [continuing]. To determine whether or not there should be additional consultation.

Senator GLENN. It would be not only on them. I don't think any of us here would feel we would give up that prerogative so far as the War Powers Act is concerned. I would not. I would feel I was left out and I would object to that procedure very strongly because I would have very strong views on what we should do.

Let me set up a hypothetical case. Take the situation I just mentioned. Let's say we are going to mine harbors and it is very necessary to keep this very close and quiet, otherwise we are liable to lose a lot of people and thwart the whole mission. Let's say the ranges of aircraft going to certain places in the Persian Gulf are limited and they are going to be operating way out there in some cases. Would you consider consulting just the Senate and House leadership, as sufficient in that situation?

Mr. CHRISTOPHER. Senator, I cannot give you a categorical reply to that. I am sorry.

I think if the President were to consult with the leadership and they were to say that the ranking member and chairman of certain committees should be consulted, they would be consulted. But I think initially the President would probably go to the leadership and then fan out to the relevant committees.

Senator GLENN. I do not object to that procedure so long as the second and third steps are accomplished.

Mr. CHRISTOPHER. I think, Senator, that your own reaction may indicate a problem in the situation because many Senators from many States will feel that they have an obligation to their constituents to be one of those who are consulted.

As I said, perhaps when you were out of the room, I believe it was the intention of the President on the day of the mission—and I recognize in my statement the frailties of that—to call in not only the leadership but the chairman and ranking members. That reflects his view of the situation as it existed at that time.

Senator GLENN. But that is not consultation. We get that from Tehran Radio. There is no consultation involved there. That is after the fact. That is just reporting what is on the international wires at that point. That is not consultation.

Consultation has to mean that you are consulting people with the idea of getting their views to see whether it is advisable to go ahead with this whole thing or not. It is so important and of such gravity that you want more than just one person in the White House making up his mind on this. The Congress has to be party to this so that we show a united front.

So, just to announce what has happened at that point does not cut it as far as consultation goes.

Mr. CHRISTOPHER. Senator, I don't want to try to defend what might have been intended that particular day, because it is all quite hypothetical. Unfortunately, we did not have that opportunity or situation.

But I believe it was the President's intention to inform Members of Congress while there still was a decision, and it would not have been equivalent to listening to Tehran Radio, although, as I say, I do not myself intend to defend that as the kind of consultation that is called for by the Act.

Senator GLENN. I just want the record to show that any consultation I would consider as true consultation would have to occur far enough in advance that the mission had not started and some time in advance of the decision to start it. It should not be just while they are waiting in the desert with us debating whether they should go on into Tehran. That is hardly consultation. At that point we are committed.

We have had several fallouts in the aftermath of this whole thing that I think are important from the foreign policy standpoint.

[Deleted.]

It appears that perhaps instead of getting better our program is coming apart. After the initial wave of what could be done we now are coming apart as far as implementing what can be projected in that area of the world.

Mr. CHRISTOPHER. Senator Glenn, I do not think we are coming apart. [Deleted.]

Senator GLENN. [Deleted.]

Mr. CHRISTOPHER. [Deleted.]

Senator GLENN. [Deleted.]

Mr. CHRISTOPHER. [Deleted.]

Senator GLENN. [Deleted.]

Mr. CHRISTOPHER. [Deleted.]

Senator GLENN. [Deleted.]

Mr. CHRISTOPHER. [Deleted.]

Senator GLENN. Are we trying to quiet this whole thing down, to have less press attention on the Iranian situation, with the idea that a little benign neglect would probably be the best thing?

It seems to me, in retrospect, that the only commodity they have been looking for over there is attention, and we have given it to them at each step along the way.

I was for each one of those steps, thinking that might tip the scales in our favor. But hindsight often being wiser than foresight, it seems to me that perhaps we have given them exactly what they were looking for, and that a little bit less attention now might do more to get the hostages out than if we keep proposing things or keep international world attention centered on them.

Would you comment on that?

Mr. CHRISTOPHER. Senator, we live in a country with a strong, free press, and that institution is not likely to change, whatever my wishes about it would be. I think some of the reporting done from Iran, some of the hyped headline reporting, does give encouragement to their maintaining this matter as an issue for their populace as well as for ours.

I think we are in a period where we need to have both poise, which is a word I used in my statement, and also patience. Patience can better be exhibited when matters are not constantly in the headlines and on the evening news.

On the other hand, I would not be party to trying to do anything to

bury this issue or to avoid its importance in the eyes of all the American people. We will never be comfortable and this issue will never be out of our attention until the hostages are returned.

So, one might wish that there were a little bit less public attention to it, but I certainly would not be a party to doing anything to divert the public from its very understandable concern about it.

Senator GLENN. I have one other question. I doubt that you really can answer it, but perhaps you could try.

Is there a time that you can foresee—say 30 days, 60 days, 6 months from now—when the whole story about this thing can come out?

Mr. CHRISTOPHER. About the rescue mission?

Senator GLENN. Yes, the whole mission. Right now we are being stonewalled at the abort point. However, I share Dick Stone's concerns that these leaks that are intentioned. I can tell you that I talked yesterday to the fellows who were on the mission and they were absolutely flabbergasted at reading the whole story in the "Washington Post." I mean, they were flabbergasted. They just could not get over Washington being that irresponsible—and for private White House purposes I might add. I am told by newsmen that some of the stuff came right out of the White House News Room. It came out the Friday after we were told by the President that they were going to stonewall everything beyond the abort point.

Somewhere and sometime the whole story has to come out or the mission will not make much sense. So far we have concentrated on the transportation to do this job. But they could have taken a bus from Kuwait, and something has to happen when they get those 90 people in front of the iron gate at the Embassy.

[Deleted.]

When can the whole story come out?

Mr. CHRISTOPHER. Senator, I think you need a military witness to answer that question, but I would say it would be some time.

Senator GLENN. That may be advisable.

Now I am not pushing. But I am curious as to when we will know the whole story.

Thank you, Mr. Chairman.

Senator PELL [presiding]. Senator Lugar.

Senator LUGAR. I will defer to Senator Stone. He has been waiting longer.

Senator PELL. Very well. Senator Stone?

Senator STONE. I thank my colleague for yielding.

Secretary Christopher, Archbishop Hilarion Capucci played a role in the return of the remains of the servicemen who died on the rescue mission, is that not right?

Mr. CHRISTOPHER. That is correct.

Senator STONE. What role did he play?

Mr. CHRISTOPHER. He played a very helpful role in having the kind of relationship with the Iranian leadership that caused them to be willing to turn the bodies over to him.

Senator STONE. Archbishop Capucci has been a frequent visitor to Tehran since the hostages first were taken, is that not correct?

Mr. CHRISTOPHER. He has been there once or twice. Frequently may be a little overstating it.

Senator STONE. Only once or twice—is that all?

Mr. CHRISTOPHER. I think he has been there at least twice that I know of in addition to this trip; but it may be more often than that.

Senator STONE. Has not Archbishop Capucci visited Tehran in the company of PLO officials?

Mr. CHRISTOPHER. Senator, I don't know the answer to that.

Senator STONE. According to press accounts, he did.

Would you find out for this committee whether he did?

Mr. CHRISTOPHER. Senator, I can try to find out for the committee. He has traveled there, as I understand it, as he did in connection with the bodies, at his own instance.

Our information from Iran is flawed, but I will do my best.

[The information referred to follows:]

Archbishop Capucci has visited Tehran possibly four times since the crisis began. We know of no Palestinian leader who accompanied him.

Senator STONE. Is it the case that Archbishop Capucci visited the hostages in the Embassy, as part of the Easter prayer mission?

Mr. CHRISTOPHER. Yes, Senator Stone. I am pausing only to try to be as accurate as I can.

He visited the Embassy, and he visited some, but I think not all, of the hostages. I will correct the record if that is not accurate.

Senator STONE. At the time that the number two and number three PLO officials visited Tehran in a publicized effort to talk to the militants, do you recall the name, at least the PLO name, of that official—Abu something?

Mr. CHRISTOPHER. No. I remember seeing the press accounts of that. That was shortly after the first group—the only group—of hostages was released.

Senator STONE. Yes.

Was not Archbishop Capucci in Tehran at that time?

Mr. CHRISTOPHER. Senator, I don't remember that.

I will furnish both that name for the record, if I may, and whether we have information about his presence there.

Senator STONE. I think it would be helpful to the committee if we can have the known dates of the Archbishop's visits to Tehran and whether or not he was in the company of PLO officials, to our knowledge. I really think I recall seeing television pictures of several of them together and joint statements made.

But I would rather operate from your own reports after you take those questions.

[The information referred to follows:]

To the best of our knowledge, Archbishop Capucci visited Tehran in February, at Easter, to return the bodies in late April and again in May. We do not know any Palestinian leader who may have been in Tehran at the same time.

Senator STONE. The reason I am pursuing this issue in the detail that I am is that on occasion senior Arab diplomats in Washington have told me that it would be the PLO and its allies and friends who will accomplish the release of our hostages. I have had that representation made to me not once and not only early, but often and recently, as well as early, and not by only one senior Arab diplomat in Washington, but at least by several.

Under those circumstances, I would like to ask you whether it is the case that the PLO is still pursuing that effort if such an effort

is being made and what do we know about it, whether we are contacting them.

Mr. CHRISTOPHER. Senator, on the first aspect of your comments, I do not know, and I doubt that anybody knows, who would have the key to unlock this tragic puzzle. Probably it lies in the hands or the mind of Khomeini.

I would tend to have a lot of skepticism about the report that any one group or any one individual has the key.

On the second part of your question, we have pursued and are pursuing a number of various channels to try to see if we can get some light on this situation. I would prefer not to identify what channels we have used in the past, what channels we are using at the moment, or what channels we are using in the future.

Let me just assure you that we are using all of the available appropriate channels to try to resolve this problem.

Senator STONE. Secretary Christopher, specifically, has any of those channels asked the State Department or our representatives or anyone in the White House, or anyone that we are using in these channels for us to work with the PLO in return for which we will either say something nice about them if it works or even begin negotiating with them if it works? That is the arrangement I have heard described.

Mr. CHRISTOPHER. Senator, just speaking in the generality, we would not be prepared to trade in that way or to deal in that way. I do not recall any instance of anybody who has offered to help who has been callous enough to say, "I will help you with your hostages if" —

Senator STONE. You do something for the PLO.

Mr. CHRISTOPHER [continuing]. "You do something for me."

I recall some people who have asked for some funds, though not the PLO. We felt unable to provide the funds they asked for. But it was not the PLO.

I think the help that we have gotten in every instance that I recall, or the offers that we have received, have been unconditional.

Senator STONE. I have one last question on the Archbishop Capucci issue.

Has the Archbishop or his representative talked to us about negotiations for the freeing of the hostages?

Mr. CHRISTOPHER. I don't know that we have had any direct contact with the Archbishop. I have heard reports, Senator, that he, among literally hundreds of other people, has tried to intervene on behalf of the hostages. But he certainly is not an agent of the United States. He is not acting on our behalf.

What he has done with respect to the bodies is something that he has done, apparently out of his religious beliefs, and it is something for which, without knowing the full facts, I feel some appreciation. But he is not acting as the agent of the United States. Perhaps that is why he was able to receive the bodies.

Senator STONE. I have one or two questions on the makeup of the militants.

All of these months questions have flooded into us and I am sure to you—probably more to you than to us. Who are these people? Who is counseling them? Who is leading them? Where are they headed? What are they? Do we have any clearer idea now than we did 6

months ago about that? If so, who are they? Who is counseling them? Where are they headed? What is it all about?

Mr. CHRISTOPHER. Our ideas are still quite misty and vague.

We believe there is a substantial number of Islamic extremists in the group who previously we had called students but who I think are better described as hard-line, right-line Islamic extremists. Those would numerically be the largest number on the basis of what I know.

My speculation is that they are led by a handful of older, more seasoned members. There are some quite young people who are involved.

There are also intimations that other groups are involved within the Embassy. First, I do not know that with any certainty. Second, I am virtually positive that there is a constantly changing mix within the Embassy compound.

Now, as they move out to other cities—some of the hostages are going to one city and some to another—we can expect an even less predictable situation as to the identity or quality of the captors.

Senator STONE. One last question, I promise.

In the gruesome display of our deceased servicemen, the apparent heir to the Imman was the man conducting that display, right in the Embassy, Ayatollah—I am not sure of his name.

Mr. CHRISTOPHER. Khalkhali.

Senator STONE. Yes, Khalkhali. Is he not at least the most frequently named religious leader to succeed Khomeini in that peculiar constitutional role described in that new Iranian Constitution?

If so, does he have a major connection with these militants?

Mr. CHRISTOPHER. First, I hope not and I don't think so. [Deleted.]

Senator STONE. Then you do not think he has a direct connection with the militants?

Mr. CHRISTOPHER. I think he appeals to the extreme attitudes of some of the hardest liners among the militants. So I think yes, there is some resonance for his outrageous, sickening actions among some of the militants.

Senator STONE. Thank you, Secretary Christopher.

The CHAIRMAN [presiding]. Senator Lugar.

Senator LUGAR. Thank you, Mr. Chairman.

Mr. Secretary, in discussing the War Powers Act and the relationship with Congress, I want to gain your comments or your thoughts about the general predicament—

The CHAIRMAN. Senator Lugar, I'm sorry, but may I interrupt just one second to make an announcement?

Senator LUGAR. Yes, of course.

The CHAIRMAN. At 2 o'clock the committee is meeting in this room to continue the markup of the Foreign Aid bills which I wish very much to complete today. In fact, we must complete this.

I hope that members will attend. I make a special appeal for attendance this afternoon so that we will have a working quorum. Then perhaps we can get the necessary Senators later in the afternoon to report the bill out.

Senator Lugar, thank you.

Senator LUGAR. At the beginning of the difficulty on November 4, it appeared to be our official position that our Embassy was invaded

by militants or militant students, that is, people other than officials of the Government of Iran. It was a private action of those citizens.

In due course, however, the President indicated that our responses to that situation could be many, and in early November he indicated that he had not ruled out the use of military force. Many observers said that this was a turn in events. It came almost at the same time, as I recall, an aircraft carrier came from the Pacific.

From that point or thereabouts, it now appears in retrospect that the rescue mission was conceived. At least some reconstructions have led us to believe this.

The reason I raise this question with regard to the War Powers Act is this. At the point the President indicated that military action might be involved, he could have asked the Congress to declare a status of hostilities, or at least to take some formal action that might have given some latitude for further activity. He did not do so, and, as I recall, for some time the interpretations of those of us who asked about this is that we were not at war with Iran because the Government of Iran had not, in fact, occupied our Embassy or taken our hostages. Rather it was still private persons who were involved. The degree of Government sponsorship became more important as time went on.

Now I suppose that is still the case. We are not at war with Iran. We have not taken formal action. One way in which the President gets off the hook altogether, I suppose, is to ask for the Congress to declare war. In that way the full Congress is involved. And, in the event that a declaration has occurred, it seems to me that the President is free as Commander-in-Chief to conduct any number of actions.

The dilemma is that he has not asked for this and, as a matter of policy, has not decided that we are at war or in a state of hostilities. But at the same time be prepared for this action.

So, we come now to this crucial point in which the President decided to implement it.

Senator Church, I think, has made an important point this morning and it is on that I share. It is this.

I suspect that one reason the President did not want to invite some people to the White House for consultation is that he sensed that they might be in disagreement with the use of military force or military action in this situation. Indeed, that has been a general debate in our country for some time. Although the President had indicated he had not ruled it out, there were a good number of people in the State Department, and even among the staff members in the White House, apparently 2 or 3 days before the action who indicated that they thought we were sliding into hostilities.

All this, while a couple of rooms away something indeed was afoot, which the President has defined as a rescue mission.

I was sitting next to Stuart Eizenstadt at the Kennedy Center while this was going on back at the White House, and I have the feeling that he probably was not aware of it. Lloyd Cutler had absented himself from the Kennedy Center and was there.

So, even within the group, there is a very peculiar problem.

I would suggest that this is likely to be repeated because, until there is some consensus within the administration and clearly within the

Congress with regard to military action, a President who feels it is absolutely vital will look for ways to find that the War Powers Act is not quite operative in that instance.

To take any other course, it seems to me, would court some very real problems.

I simply want your comment, without having any idea what your viewpoint was all the way through this argument. Secretary Vance indicated in a way what his viewpoint was. Would it not have been better much earlier on for the President or you who are advising the President, knowing that you are rehearsing a military rescue operation, to have asked Congress for some formal action that would give the administration the latitude to employ military activity or, more limited than that, a rescue mission, and have at least that degree of consensus so that we would not come to a constitutional struggle over the War Powers Act which, I think in this instance, is acute?

MR. CHRISTOPHER. Senator, I do not think it would have been desirable for the President to have asked for a resolution from the Congress approving a rescue mission—to use the exact formulation of your question.

I think that the mission depended so greatly on both secrecy and surprise that it would have been unwise to have the matter debated in the halls of Congress over a resolution prior to the rescue attempt.

Although I was not involved in the details until a very late date, as I said earlier, it is clear on the record that the consideration of a rescue mission in November and December, and even through January, indicated that it was not likely to be feasible, or was not a promising alternative. A number of technical breakthroughs and other favorable developments brought it into the range of, first, feasibility and then high promise. But I would think that the promise depended from the very first and particularly at the very last on both secrecy and surprise if it were to be conducted with either no loss of life or the minimum loss of life.

Senator LUGAR. Conceding that that is true with regard to the specific operation, clearly when the President said he had not ruled out military action, by implication this ruled it in as a possibility. And by movement of substantial numbers of ships and aircraft into the general area, there was a possibility that somebody might shoot at somebody at some stage.

Wasn't there a requirement at that point in order for the President to be credible, if he says military action is not ruled out and there is an element of surprise involved? On what basis is the President going to be credible in the use of military action in a surprising way if there is not some confirmation by the Congress before those circumstances arise?

MR. CHRISTOPHER. I think the President can be credible without going to the Congress far in advance. He has the powers of the Commander-in-Chief. The War Powers Act did not intend or purport to take away his inherent powers or to change the Constitution in that regard.

Taking the War Powers Act at its full face and implementing it honorably and conscientiously I think would not destroy the credibility of the President. Indeed, no one I think in the Congress would want a War Powers Act if it did so.

It requires consultation in a given set of circumstances. It requires reporting under given circumstances. But those I think do not require the President months in advance to telegraph his punches.

Senator LUGAR. He really does not have too many punches, even if he is moving ships and aircraft around, if there is no latitude for his use of these elements. In other words, in addition to the general perception of simply having the aircraft carriers close at hand, which is important, the use of anything from them—helicopters or aircraft, would verge closely on something that clearly falls within the War Powers Act. Movement of that many ships of our fleet there to begin with may. They certainly could get in a provocative circumstance if anybody else has any aircraft or fleet concentrated in that area.

In short, I do not see how we can move regarding Iran without the Congress having a debate of sorts as to whether it is going to support military action if that is required. I do not think the President is in a position to use military action if it is required without coming into constitutional difficulty over the War Powers Act.

As I understand the Act, as Senator Javits and certain others have explained it, it is to cover precisely this hiatus where there has not been a mandate from the Congress to do anything at all, where there has been no debate by the public. It is to prevent a President literally from waging war and telling the Congress about it later on.

This is the dilemma. This is my own judgment and I appreciate that it is not shared by many people. The clean-cut way to handle the situation is to declare a status of hostilities. It does not mean that we send bombers over Iran or that we take some provocative action. It simply indicates after a Congressional debate and an up or down vote in this body that we are in that sort of situation. The President, as our Commander-in-Chief, is the Executor of that policy.

Mr. CHRISTOPHER. Senator, I do not want to be either contentious or to prolong this. But I do not think there is any real question about Presidential power in this situation. He has a power that is clearly spelled out in the act to protect the United States and its Armed Forces, there being Armed Forces among those who are held hostage. Second, there is inherent power to protect the Americans who are held hostage abroad, a long recognized power under international law.

So, there is an issue about consultation, and none of us downplay the issue of consultation. But I have not heard it seriously suggested, and I am not sure you are seriously suggesting, that the President lacked the power to do what he did in this instance.

If that is the issue, I want to say with all the clarity and force that I can that I think both under the terms of the War Powers Act itself as well as the inherent power he has to protect American citizens abroad, the President had the power to do what he did.

Senator LUGAR. But the question of protection is at issue here. The hostages were lost. The protection is gone, overrun. There is power on the part of the Iranians to distribute the hostages all around the country. We are in a process now through our economic activities, through action with our allies, through sanctions, and through the so-called rescue mission of literally taking military action to repair a situation, as opposed to protecting the original enclosure about the

people. In other words, there is no enclosure around the people now. The situation is lost. The President's power has to be regained.

Maybe the power to protect can be construed that broadly, and then we would agree. But that clearly calls into question the entire War Powers Act.

In other words, once people are gone and we have no Embassy to protect, it seems that at that point we are involved in an affirmative, aggressive action. Clearly that is the way the President saw it, that is the way Vance saw it, and they disagreed about whether we ought to be involved in affirmative aggressive action. The reason we are discussing this is to try to figure out how we can make the War Powers Act work.

I am becoming cynical, to use the chairman's word, and troubled by the fact that if a President already has declared he is not ruling out that force and is preparing to use it and we are all aware of that, and then he does it, there is something amiss here. It is not only how many people are consulted. It probably would be instructive to go back through the decisionmaking process of the Presidency to see what sort of latitude one has to do these things without having a debate in a broad sense that gives some cover for any number of options that may be more or less of a surprise.

I appreciate your patience in allowing me to have this forum to vent my own difficulties about this. You are always temperate and I am grateful to you.

The CHAIRMAN. Senator Sarbanes.

Senator SARBANES. Thank you, Mr. Chairman.

Mr. Secretary, I had to be out of the room because there was an amendment on the floor in which I was involved. So if I duplicate some questions, I apologize in advance.

First, how many Americans are in Tehran now, not involved in any sort of secret mission but that we know about? I mean press, business people, anything of that sort. Do we have any idea?

Mr. CHRISTOPHER. Senator, our numbers on that are very imprecise.

When I had special reason to be concerned a couple of weeks ago, the best estimate of the number of press was about 20, and I thought there was probably at least that many other Americans who were there for one reason or another.

Since they are admitted by the Iranians, we have no control over who goes and who does not go. It is very hard for me to be certain about that. It is a number in that range, although it very substantially could increase.

As you know, the President has indicated that American passports, except for newsmen, would not be valid for travel to Iran. On the other hand, if people are admitted by the Iranians and want to risk whatever is involved in using their passport in that way, there is little that we can do to stop them.

My guess would be about a score of newsmen and a score of additional Americans, although the latter number is one I would ask you please not to hold me to.

Senator SARBANES. Was it anticipated in moving forward with the rescue mission that, even if successful in moving the hostages out of the Embassy, the Iranian reaction would be simply to seize a new set of

hostages—I mean from among these Americans that you have mentioned as located there?

What was the thinking on that particular point that might have seen this rescue mission work but that group of hostages replaced by a different group of American hostages?

Mr. CHRISTOPHER. Senator, that was a risk that had to be taken into account. It was unquestionably weighed by the President in his decision to go ahead.

Senator SARBANES. Was the assumption that they would not be taken or that they would be taken and it would somehow change the situation? How was that problem addressed in the thinking as you moved ahead on this mission?

Mr. CHRISTOPHER. As you know, I am under some injunction about talking about phases of the mission that were not accomplished. I think the best I can say is that that risk was assessed, various assumptions were considered as to what might happen to the Americans who were there, and that had to go under the overall calculus.

Senator SARBANES. Let me ask this question.

Was their removal from Iran part of the rescue mission?

Mr. CHRISTOPHER. I am really sorry, but I think I am not free to speak about the aspects of the mission that were not carried out.

Senator SARBANES. At least not to us. It seems to me that somebody in the administration, though not you, seems to be speaking about it elsewhere.

You are a pretty good lawyer, so I want to get clear the legal response you gave to Senator Lugar a moment ago about the President's authority. You said he probably had the authority to act under the War Powers Act and under his inherent power—is that correct?

Mr. CHRISTOPHER. That's correct.

Senator SARBANES. Is the power to act under the War Powers Act that you see the provision in section 8 which says that nothing in the War Powers Act will impede his inherent authority, or do you find another basis for acting under the Act in addition to the assertion that his inherent power will not be restricted?

Mr. CHRISTOPHER. I find the basis in section 2(c), where it states that the President can act when there is an attack upon the United States or its Armed Forces.

I think the seizure of the Embassy by the militants and the latter ratification of that action by the Government of Iran clearly could be characterized as an attack upon the United States because it was an attack upon the United States Embassy or its armed forces, because there were Marines and Army men there.

Senator SARBANES. Then there is no time dimension for that, is that correct? Do you read it as without a time dimension?

Mr. CHRISTOPHER. Well, I read it with a time dimension, but not having the time dimension violated here. When you have hostages seized, until they are freed I would say that power exists.

Now that blends very quickly or it bleeds over into the inherent power that always has been recognized under international law to rescue citizens of a country when they are being held hostage. But I find it both in the terms of the War Powers Act as well as in the inherent power which is protected under section 2(c).

Senator SARBANES. I am trying to separate that out because they are obviously a different basis for the Presidential authority.

Mr. CHRISTOPHER. I find it in both places.

Senator SARBANES. What lessons does the Pueblo situation provide for us here? My understanding is that those men in the ships were seized in late January 1968, and were released 3 days before Christmas of the same year. In other words, they were held for a period of 11 months. What lessons could we draw from the Pueblo and how that was handled in this instance?

Mr. CHRISTOPHER. Persistence, patience, poise, determination—I think those are the lessons one draws from that event. It is not exactly similar to this event, but nevertheless has some analogues. They were military men on an acknowledged dangerous mission. They were in the hands of a government which was in control and with which one could negotiate.

But, nevertheless, I think the situation was resolved only after a great deal of negotiation, with a lot of patience, a lot of ingenuity and in a way that, at the moment, seemed less than satisfactory but perhaps in retrospect the modalities do not seem so important as the result.

Senator SARBANES. Did we press our allies in that case on economic sanctions and similar measures?

Mr. CHRISTOPHER. I was not here then, Senator, but my recollection in my reading of that instance is that we did not.

The CHAIRMAN. I was here and that is my recollection as well.

Senator SARBANES. What is the administration's response to what we see in the European press and I must say also to what we hear in talking with them, that they will move forward to put in economic sanctions simply because we want them but that they cannot regard that as a wise step to take in this situation?

First of all, is that what they are thinking? Second, assuming it is what they are thinking, what is the administration's response to that?

Mr. CHRISTOPHER. That is a widely held view among a number of Europeans. I would certainly concede that, Senator.

Whether there may be an element of self-interest in that view, I would not be positive, but I credit it as being sincere.

It is a close question as to whether sanctions are a valuable tool in this instance. It is my own judgment, considering the state of the Iranian economy, its military and its oil production, that at this moment sanctions have a net plus effect. It is quite a different situation in that respect than in North Korea, with whom we had no trade relations and with whom one could not anticipate sanctions bringing pressure on the government.

Here, I think at least there are some people within the government who value the revolution, who value their independence so highly that they may see the deterioration of the economy as something they want to bring to a halt.

Senator SARBANES. That leads me to my next question.

Is American reaction and the steps we are taking being used in Iran to strengthen anti-American forces rather than to weaken anti-American forces?

Mr. CHRISTOPHER. I got lost someplace in your question, Senator. I'm sorry.

Would you please restate it.

Senator SARBANES. To what extent are the various steps we have taken and our reactions playing into the hands of or strengthening anti-American forces in Iran rather than weakening or undercutting anti-American forces in Iran?

Mr. CHRISTOPHER. That is a good way to put the fundamental, underlying question.

We think that the sanctions give a reason to those who would like to end the crisis to argue for its culmination. In other words, we think that those in Iran who might want to end the crisis will be able to say if we end it, we can get the spare parts we need for our military machine, for our oil wells, for our other industries, we will have the prospect of getting some way to unfreeze our assets. On the other hand, those same people will feel that if some action is not taken, they can see a further deterioration.

So we are trying to strengthen the hand of those who would be favorable to a culmination of this matter and are trying to inflict punishment so they want to do that.

Senator SARBANES. I understand that. But at the same time, doesn't the playing off of the Americans become a strong suit in the hands of the anti-American elements?

Mr. CHRISTOPHER. Yes. I think we can expect the anti-American elements to complain about the hardships imposed by the sanctions.

It is a close and difficult judgment.

Senator SARBANES. Well, when you are dealing with, as some people assert, a religious fanaticism and so forth and the whole notion of martyrdom, to what extent do you simply contribute to that and simply make them even more fanatic about things, emotionally fanatic?

Mr. CHRISTOPHER. The religious leaders are also political leaders, and are very skillful political manipulators. I think there is a chance that they can be reached through the pressure of the sanctions. The absence of sanctions during the 2 or 3 month period between January and April certainly did not produce a satisfactory result.

Senator SARBANES. What power would the administration have to invoke to bring an end that is considered desirable to this anomaly of watching American television and hearing newsmen say, "Here I am, standing right outside the Embassy in Tehran, and behind me 50 Americans are now being held hostage for the 192d day," while the newsman apparently is circulating freely in the society?

It is really a rather contradictory situation, isn't it?

Mr. CHRISTOPHER. Well, certainly one can find it personally unattractive.

[Deleted.]

Senator SARBANES. [Deleted.]

Mr. CHRISTOPHER. [Deleted.]

Senator SARBANES. Thank you.

The CHAIRMAN. I think we are winding down, though Senator Javits asked to be advised when we were coming to a close. I think he has some further questions.

Is it true that the Iranian Air Force strafed the abandoned helicopters?

Mr. CHRISTOPHER. That is my understanding.

The CHAIRMAN. And that one of the Revolutionary Guards who appeared on the scene was killed?

Mr. CHRISTOPHER. I have seen those reports.

The CHAIRMAN. That seems a very strange happening.

Mr. CHRISTOPHER. Well, you see, they claim credit for having shot them down.

The CHAIRMAN. You know, there is a practice of shooting mud ducks in Idaho, sitting ducks, as it were, which is sort of frowned upon by the sportsman.

What are we going to do about the Libyans and the Libyan diplomats who refuse to heed our orders for them to leave the country?

Mr. CHRISTOPHER. I think that becomes a somewhat complex law enforcement problem. At the moment, we are insisting that they have diplomatic status and thus can be subject to being declared PNG. But in a very short time I think we will have to move into a different mode with respect to them.

It has always been an unusual situation. They claim to be a committee and not diplomats, although they have insisted upon the sanctity of their diplomatic properties. I am glad that the matter has now come to a head.

We have given them until May 9 to register as diplomats or to get out. That is normal. That includes all of them.

My hope is that they will get out before we have to take some sterner action.

It is either a law enforcement matter now or is on the verge of becoming a law enforcement matter.

The CHAIRMAN. But you are not in a position where you cannot move because of diplomatic immunity?

Mr. CHRISTOPHER. No.

If they claim diplomatic immunity, we would simply PNG them and then they would have to leave. What they are claiming now is that they are citizens not subject to being PNG.

The CHAIRMAN. But they are foreigners.

Mr. CHRISTOPHER. Yes, they are foreign citizens. Then we would have to move to deport them, which is a longer procedure.

The CHAIRMAN. I assume that you will keep the committee informed with respect to information as it becomes available concerning the whereabouts of the hostages and their health.

Mr. CHRISTOPHER. Yes, we certainly will.

Mr. Chairman, I am prepared to declassify my statement. I had presented it thinking it was going to be in closed session. But I have gone back over it now and frankly there is only a sentence or two that I am worried about and I think trying to remove them with as many copies as are around creates more problems than solutions.

The CHAIRMAN. I think it is a service to declassify your statement.

Mr. CHRISTOPHER. You can regard it as being declassified.

The CHAIRMAN. Thank you.

Mr. CHRISTOPHER. But my testimony other—

The CHAIRMAN [continuing]. Your testimony, of course, has been taken in Executive Session and will be so treated. Mr. Christopher, I have no further questions.

The press is out there and I intend to quote from your statement with respect to assurances that the committee will be consulted in the future, if it is agreeable.

Mr. CHRISTOPHER. Certainly. Whatever I have said in the statement you are entitled to quote from.

Senator JAVITS. I won't keep you for more than a few more minutes, Warren, and then we will go out and meet the press.

I would like to read into the record the definition from Webster's "New Collegiate Dictionary" of the word "consult."

"'Consult': (a)"—that is, the normal construction—"to ask the advice or opinion of; (b) to refer to; (2)"—that is, the secondary meaning—"to have regard to; to consult an individual; to deliberate together." "To serve as a consultant."

This means to me a much more active role than just telling us. We are supposed to have an opportunity which is seasonable to make known our views as well.

I already have read into the record all of the pertinent references to this question. I would like to sum them up for the record. I hope, Mr. Chairman, that as much of this record as can be made public will be before too long so the public can judge.

I would sum it up by saying this. The committees, according to the rules of the Senate, which are law under the Constitution for the Senate, are the agents of the Senate for the purpose of bringing it information and recommendations and carrying out its will in terms of oversight. It is the body itself which determines what is an adequate compliance with consulting the Congress, and therefore anything less than the decision of the body is at the risk of the individual members who are acting, if they are, as individuals, or acting as agents for their particular committees, or for the whole body, like the leaders.

Therefore, I believe that the most constructive role that I can play as the author of the law is to seek to use this very precise and vivid case in point for the purpose of going further—I have no illustrations about forever or being able to do everything—to codify what we really mean by "consultation" in terms of the way in which, the methodology in which the Congress is consulted, that being the law.

I cannot accept, Warren, and this is why I wanted this moment in time, the fact that we are making or unmaking Presidential power, nor do I concede that Presidential power allows the President, because he is Commander-in-Chief, to proceed to deploy forces of the United States in such a way as to possibly bring on a war without the Congress being a party to it.

That is what we tried to do with the War Powers Resolution, which is only a methodology as to how this fact should be determined, rather than an effort to make powers or change powers which the law cannot do.

If you have any comment, I would be happy to receive it.

Mr. CHRISTOPHER. Senator, I think I would just be repeating myself. Essentially, somebody has to decide whether it is possible or feasible to consult in a given instance. That is a decision that the President made in this instance. He decided that under these very unusual circumstances, it was not feasible to consult. He thought that decision was justified on the basis of the legal interpretation he had been given.

I do not have any reason to believe that there was any lack of sincerity about that. I know he was acutely concerned about the secrecy of the matter.

But I understand the deeply felt positions on your side. I am glad we are in a position where we are prepared to go forward and implement the War Powers Act in the future.

I think this incident, and particularly the conversations at the White House the other day, clarified the matter.

Senator JAVITS. Very good.

All that I say is that that decision of whether it is possible is not up to the President alone. It is up to him and us.

Warren, may I ask this?

Would you consider—perhaps you have to get other authority—letting us see the opinion of whoever was the President's counsel?

The CHAIRMAN. Hasn't that been distributed?

Mr. CHRISTOPHER. Yes, that has been distributed.

Senator JAVITS. We have it?

Mr. LAKELAND. We do have it?

Senator JAVITS. I have not seen it.

The CHAIRMAN. The President said at one point that the opinion was available. I remember him saying that at the first meeting we had.

Mr. CHRISTOPHER. Lloyd Cutler has distributed it quite widely. We would be glad to see that you get a copy.

Senator JAVITS. Well, I, at least, have not seen it.

Mr. LAKELAND. Would we get the Attorney General's opinion also?

Mr. CHRISTOPHER. No. I believe what Mr. Cutler said was that he had consulted with the Attorney General and that they shared views on this.

Senator JAVITS. Is that stated in the opinion?

Mr. CHRISTOPHER. No. That is stated by Mr. Cutler, but not in the opinion.

Senator JAVITS. Could we have that?

The CHAIRMAN. I see no reason why the committee should not have the Attorney General's opinion on the question, too.

Mr. CHRISTOPHER. I would certainly think that is within the province of the committee to ask.

Senator JAVITS. May we ask for that?

The CHAIRMAN. Yes, we ask for it.

Senator JAVITS. Thank you, Mr. Chairman.

The CHAIRMAN. Warren, thank you very much.

[The material referred to follows:]

ASSISTANT SECRETARY OF STATE,
Washington, May 30, 1980.

Hon. JACOB K. JAVITS,
U.S. Senate.

DEAR SENATOR JAVITS: At his hearing on Iran on May 8, Deputy Secretary Warren Christopher was asked to provide a copy of the legal opinion prepared by the President's Counsel, Lloyd Cutler, on war powers consultations. Enclosed is a copy of that opinion.

Mr. Christopher was also asked to provide a copy of any legal opinion prepared by the Attorney General on this matter. He indicated that it was his impression that the Attorney General and the President's Counsel had consulted on the matter but that a written opinion was not prepared. We have subsequently confirmed that impression.

On May 9, 1980, a copy of the opinion prepared by Mr. Cutler was forwarded to the Committee's Staff Director. Given your personal interest in this matter, a

copy should have been forwarded simultaneously to the minority staff. I regret any inconvenience the delay may have caused.

Sincerely,

J. BRIAN ATWOOD.

Enclosure:

Legal opinion.

1. In my opinion, the President's decision to use the armed forces in an attempt to rescue the American hostages in Iran, without consulting Congress before taking this action, was a lawful exercise of his constitutional powers as President and Commander-in-Chief, and did not violate the War Powers Resolution of 1973.

2. The President's constitutional power to use the armed forces to rescue Americans illegally detained abroad is clearly established. *In re Neagle*, 135 U.S. 1, *Durand v. Hollings*, 8 Fed. Cases 111. This power was expressly recognized in the Senate version of the War Powers Resolution, and is not negated by the final version of the Resolution, especially where, as here, those to be rescued include United States Marines.

3. His inherent constitutional power to conduct this kind of rescue operation, which depends on total surprise, includes the power to act before consulting Congress, if the President concludes, as he did in this case, that to do so would unreasonably endanger the success of the operation and the safety of those to be rescued.

4. Section 3 of the War Powers Resolution does require consulting with Congress "in every possible instance" before introducing United States Armed Forces into "hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." In this case, the first stage of the operation—introducing the rescue team into Iran during the night of April 24—did not involve any hostilities. The rescue effort itself was not to be initiated before the following night, and could have been aborted before any involvement in hostilities was "clearly indicated," and this is in fact what occurred.

5. In any event, Section 8(d)(1) of the War Powers Resolution provides that nothing in it "is intended to alter the constitutional authority of the Congress or of the President." If Section 3 were read to require prior consultation in these precise circumstances—where the President has inherent constitutional authority to conduct a rescue operation dependent on surprise and reasonable ground to believe that prior consultation would unreasonably endanger the success of the operation and the safety of those to be rescued—this would raise grave issues as to the constitutionality of Section 3. Since statutes and joint resolutions are to be read where possible in a manner that does not raise such grave constitutional issues, Section 3 and Section 8(d)(1), read together, should not be construed to require prior consultation under the precise circumstances of this case. *Eastern Railroad Conference v. Noerr*, 365 U.S. 127 (1961); *California v. Arizona*, 440 U.S. 59 (1979).

[Whereupon, at 1:28 p.m., the committee adjourned, subject to call of the Chair.]



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